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Senate

The Senate met at 9 a.m., and was called to order by the Honorable TED STEVENS, a Senator from the State of Alaska.

The PRESIDING OFFICER. We will now have a prayer from Father Paul E. Lavin from St. Joseph's Church on Capitol Hill.

PRAYER

The guest Chaplain, the Reverend Paul E. Lavin, offered the following prayer:

Let us join millions of our fellow citizens and millions of others in faith communities around the world who today honor the memory of Joseph, spouse of Mary, Foster father and faithful guardian of Jesus. We listen to the words of Scripture which he surely found a support in his life, from the Book of Wisdom (10:10–11).

Wisdom, when the just man was in flight, guided him in direct ways,
Showed him the Kingdom of God and gave him the knowledge of holy things;
She prospered him in his labors and made abundant the fruit of his works.

Let us pray:

Good and gracious God, give the men and women of this Senate and give their staffs the inspiration to listen carefully to Your word here, in their homes, and in their own faith communities; support them when they experience doubts and fears; and embolden them to live their lives in response to Your word, and ultimately to be obedient to Your word, as was Joseph. Guide these Senators by Your wisdom, support them by Your power, and keep them faithful to all that is true, glory and praise to You forever and ever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 19, 1996.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TED STEVENS, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. STEVENS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. LOTT. This morning the Senate will immediately resume consideration of H.R. 3019, the omnibus appropriations bill. Under a previous order, there will be a total of 3 hours of controlled debate on the Boxer amendment No. 3508 and the Coats amendment No. 3513, both amendments regarding the subject of abortion. Following the expiration or yielding back of that time, the Senate will resume consideration of the Murkowski amendment No. 3525 regarding Greens Creek.

The Senate will stand in recess between the hours of 12:30 p.m., and 2:15 p.m., in order to accommodate the respective party luncheons. When the Senate reconvenes at 2:15 p.m., there is expected to be a series of rollcall votes on or in relation to amendments and passage of the omnibus appropriations bill, H.R. 3019. Senators are also reminded that at some point during today's session the Senate will be voting on the motion to invoke cloture on the motion to proceed to Senate Resolution 227 regarding authority for the Special Committee To Investigate the Whitewater Matter; passage of S. 942, the small business regulatory reform bill, and possibly a vote on the motion to invoke cloture on the product liability conference report unless a unanimous consent can be reached to the contrary.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BALANCED BUDGET DOWNPAYMENT ACT, II

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate H.R. 3019, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Hatfield modified amendment No. 3466, in the nature of a substitute.

Lautenberg amendment No. 3482 (to amendment No. 3466), to provide funding for programs necessary to maintain essential environmental protection.

Boxer-Murray amendment No. 3508 (to amendment No. 3466), to permit the District of Columbia to use local funds for certain activities.

Gorton amendment No. 3496 (to amendment No. 3466), to designate the ''Jonathan

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● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

M. Wainwright Memorial VA Medical Center'', located in Walla Walla, Washington.

Simon amendment No. 3511 (to amendment No. 3466), to provide funding to carry out title VI of the National Literary Act of 1991, title VI of the Library Services and Construction Act, and section 109 of the Domestic Volunteer Service Act of 1973.

Coats amendment No. 3513 (to amendment No. 3466), to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions.

Bond (for Pressler) amendment No. 3514 (to amendment No. 3466), to provide funding for a Radar Satellite project at NASA.

Bond amendment No. 3515 (to amendment No. 3466), to clarify rent setting requirements of law regarding housing assisted under section 236 of the National Housing Act to limit rents charged moderate income families to that charged for comparable, non-assisted housing, and clarify permissible uses of rental income is such projects, in excess of operating costs and debt service.

Bond amendment No. 3516 (to amendment No. 3466), to increase in amount available under the HUD Drug Elimination Grant Program for drug elimination activities in and around federally-assisted low-income housing developments by $30 million, to be derived from carry-over HOPE program balances.

Bond amendment No. 3517 (to amendment No. 3466), to establish a special fund dedicated to enable the Department of Housing and Urban Development to meet crucial milestones in restructuring its administrative organization and more effectively address housing and community development needs of States and local units of government and to clarify and reaffirm provisions of current law with respect to the disbursement of HOME and CDBG funds allocated to the State of New York.

Santorum amendment No. 3484 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of federal disaster assistance.

Santorum amendment No. 3485 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of Federal disaster assistance.

Santorum amendment No. 3486 (to amendment No. 3466), to require that disaster relief provided under this Act be funded through amounts previously made available to the Federal Emergency Management Agency, to be reimbursed through regular annual appropriations Acts.

Santorum amendment No. 3487 (to amendment No. 3466), to reduce all title I discretionary spending by the appropriate percentage (.367%) to offset Federal disaster assistance.

Santorum amendment No. 3488 (to amendment No. 3466), to reduce all title I ''Salary and Expense'' and ''Administrative Expense'' accounts by the appropriate percentage (3.5%) to offset Federal disaster assistance.

Gramm amendment No. 3519 (to amendment No. 3466), to make the availability of obligations and expenditures contingent upon the enactment of a subsequent act incorporating an agreement between the President and Congress relative to Federal expenditures.

Wellstone amendment No. 3520 (to amendment No. 3466), to urge the President to release already-appropriated fiscal year 1996 emergency funding for home heating and other energy assistance, and to express the sense of the Senate on advance-appropriated funding for fiscal year 1997.

Bond (for McCain) amendment No. 3521 (to amendment No. 3466), to require that disaster funds made available to certain agencies be allocated in accordance with the established prioritization processes of the agencies.

Bond (for McCain) amendment No. 3522 (to amendment No. 3466), to require the Secretary of Veterans Affairs to develop a plan for the allocation of health care resources of the Department of Veterans Affairs.

Warner amendment No. 3523 (to amendment No. 3466), to prohibit the District of Columbia from enforcing any rule or ordinance that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland.

Murkowski-Stevens amendment No. 3524 (to amendment No. 3466), to reconcile seafood inspection requirements for agricultural commodity programs with those in use for general public consumers.

Murkowski amendment No. 3525 (to amendment No. 3466), to provide for the approval of an exchange of lands within Admiralty Island National Monument.

Warner (for Thurmond) amendment No. 3526 (to amendment No. 3466), to delay the exercise of authority to enter into multiyear procurement contracts for C–17 aircraft.

Burns amendment No. 3528 (to amendment No. 3466), to allow the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act.

Coats (for Dole-Lieberman) amendment No. 3531 (to amendment No. 3466), to provide for low-income scholarships in the District of Columbia.

Bond-Mikulski amendment No. 3533 (to amendment No. 3482), to increase appropriations for EPA water infrastructure financing, Superfund toxic waste site cleanups, operating programs, and to increase funding for the Corporation for National and Community Service (AmeriCorps).

Hatfield (for Burns) amendment No. 3551 (to amendment No. 3466), to divide the ninth judicial circuit of the United States into two circuits.

Burns amendment No. 3552 (to amendment No. 3551), to establish a Commission on restructuring the circuits of the United States Courts of Appeals.

AMENDMENT NO. 3513

The ACTING PRESIDENT pro tempore. Under the time agreement on these amendments, there is 1 hour now allocated to the Senator from Indiana [Mr. COATS]. The amendment is now before the Senate.

Mr. COATS. Mr. President, thank you.

Last week, as we were looking at potential amendments for this legislation, the issue of the potential discrimination that might exist regarding payments from the Federal Government to medical hospitals and to individual residents in training, loans, and other Federal assistance that is available for these individuals and these institutions, was threatened by potential loss of accreditation to these institutions as a result of the Accrediting Council on Graduate Medical Education's change in their requirements for accreditation to mandate the training in abortion techniques.

Previously, this had been done on a voluntary basis. Many hospitals, for a number of reasons, whether they are religious reasons, moral reasons or just purely decisions on the basis of the board of directors or governors of these institutions, determined that they would not have a mandatory program of abortion training. Voluntary programs existed. Those who sought that training had access and could receive that training, but it was not mandated.

The change in regulations on the part of the Accrediting Council on Graduate Medical Education threatened to withdraw accreditation from many of these institutions unless they opted out under a so-called conscience or moral clause. It was my feeling and the feeling of many that this opt-out clause was not sufficient to address the concerns of a number of institutions, particularly nonreligious-based institutions. So I offered an amendment last week which was designed to clarify this.

That amendment essentially said that any State or local government that receives financial assistance should not subject any health care entity to discrimination on the basis that the entity refused to undergo training in the performance of induced abortions or to require or provide such training to perform such abortions or provide referrals for the training for such abortions.

We, in discussion with a number of other Senators, came across a possible misinterpretation of the exceptions to the section that basically said that nothing in this amendment that I am offering should in any way restrict or impede the accrediting council from making that accreditation. The concern was, if I state it correctly, that we would lose a valuable means of examining the various programs that existed in hospitals and resident training programs for determination of whether or not the Government should participate. It is legitimate that we have an accrediting process on which we can rely. What I was trying to do with my amendment was simply address the question of training for induced abortions.

We had exceptions to that which basically stated that nothing in this act should prohibit the accrediting agency or a Federal, State, or local government from establishing standards of medical competency applicable to those individuals who voluntarily elected to perform abortions or prevent any health care entity from voluntarily electing to be trained or arrange for training in the performance of or referrals for induced abortions.

We have had numerous discussions with the Senator from Maine relative to this language. Some negotiations over the weekend have resolved this. It preserves the entire impact of the Coats amendment and yet addresses and clarifies the concerns of the Senator from Maine. So I am pleased to announce this morning that we have reached agreement on this amendment. The amendment will be cosponsored by the Senator from Maine. We resolved the language differences. It also addresses an issue of second-degree, which would have prolonged the debate

on this important broader bill, and so I am happy to report to my colleagues that we will be able to free up some time on that basis for discussion of the amendment that is offered by the Senator from California, Senator BOXER.

The Senator from Maine is present this morning, and I know she has some comments to make in this regard. Let me say this. The Senator from Tennessee, Senator FRIST, has been instrumental in helping us first understand the accrediting process and the importance of the accrediting process. As a medical doctor, he has some knowledge and personal experience with this issue and these questions that I cannot begin to bring to the debate. He and his staff have been immensely helpful in helping us to draft this legislation so we can accomplish what we intended to accomplish, but also retain the integrity of the accrediting process.

I am very happy to yield to him. I will yield whatever time the Senator from Tennessee desires in order to speak to this amendment.

The ACTING PRESIDENT pro tempore. The chair did not hear the Senator seek to modify his amendment.

Mr. COATS. Mr. President, this is an appropriate time to ask unanimous-consent to modify my amendment. I send that modification to the desk.

Mrs. BOXER. I object.

The ACTING PRESIDENT pro tempore. There are no yeas and nays ordered, so the Chair is corrected. Since there is a time agreement, it takes unanimous consent.

Mrs. BOXER. I object at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. COATS. Mr. President, I will discuss this modification with the Senator from California and, hopefully, we can resolve the question here. At the present time, I want to yield time to the Senator from Tennessee.

I will withhold the unanimous-consent request at this time so I can discuss it with the Senator from California.

I yield whatever time the Senator from Tennessee needs.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. FRIST. Mr. President, I commend the Senator from Indiana for his thoughtful approach to this important issue. My colleague has proposed an amendment that will protect medical residents, individual physicians, and medical training programs from abortion-related discrimination in the training and licensing of physicians. However, in our efforts to safeguard freedom of conscience, there are limits to what Congress should impose on private medical accrediting bodies. I believe this amendment stays within the confines of the governmental role and addresses the matter of discrimination in a way that is acceptable to all parties.

This amendment states that the Federal Government, and any State that receives Federal health financial assistance, may not discriminate against any medical resident, physician, or medical training program that refuses to perform or undergo training and induced abortions, or to provide training or referrals for training in induced abortions.

Discrimination is defined to include withholding legal status or failing to provide financial assistance, a service, or another benefit simply because an unwilling health entity is required by certain accreditation standards to engage in training in or the performance of induced abortions.

The primary concern that occurs when one addresses any accreditation issue is that quality of care will be sacrificed. As a physician, the care of patients is my highest priority, and this amendment specifically addresses this issue. It makes it clear that health entities would still have to go through the accreditation process, and that their policy with regard to providing or training in induced abortion would not affect their Government-provided financial assistance, benefits, services, or legal status.

The Government would work with the accrediting agency to deem schools accredited that—and I quote from the amendment—''would have been accredited but for the Agency's reliance upon a standard that requires an entity to perform an induced abortion, or require, provide, or refer for training in the performance of induced abortions or make arrangements for such training.''

Mr. President, this amendment arose out of a controversy over accrediting standards for obstetrical and gynecological programs. The Accreditation Council for Graduate Medical Education, the ACGME, is a private body that establishes and enforces standards for the medical community. As a physician, I deeply respect and appreciate the ACGME, and I understand the fundamental need for quality medical standards and oversight.

Moreover, I feel strongly that the Federal Government should not dictate to the private sector how to run their programs. We must not usurp the private accreditation process. But, at the same time, Congress is responsible for the Federal funding that is tied to accreditation by the ACGME, and as public servants, we must ensure that there is no hint of discrimination associated with the use of public funds.

I am pleased, Mr. President, that we could work together to address the legitimate concerns of both sides in crafting this amendment. I join with the Senator from Indiana and the Senator from Maine in supporting this amendment, which will prevent discrimination with respect to abortion, but preserve the integrity of the accreditation process.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent that the time that is now running during any quorum call be equally divided between both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COATS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for a period of 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE SPECIALTY EQUIPMENT MARKET ASSOCIATION TO STAGE AN EVENT ON THE CAPITOL GROUNDS

Mr. CAMPBELL. Mr. President, I want to speak briefly with regard Senate Concurrent Resolution 44, a resolution which I and several colleagues submitted last week, that would reauthorize the Specialty Equipment Market Association, in consultation with the Architect of the Capitol, to stage an event on the Capitol Grounds on May 15.

As a motor enthusiast, I believe it is important to recognize the contributions the motor sports industry has made to improve the quality, performance and, more importantly, the safety of most all motor vehicles on the road today. Certainly, the American public has demonstrated a continuing love affair with motor vehicles since their introduction over 100 years ago in this country, enjoying vehicles for transportation and recreational endeavors, ranging from racing to show competitions, and as the way of creating individual expression that has been extremely popular in the last 100 years.

In addition, research and development connected with motor sports competition and specialty applications has provided consumers with such life-saving safety mechanisms, including seatbelts, airbags, and many other important innovations.

As a result, the motor sports industry has grown tremendously over the years, where today hundreds of thousands of amateur and professional participants enjoy motor sports competitions each and every year throughout

the United States, attracting attendance in excess of 14 million people, making the motor sports industry one of the most widely attended of all U.S. sports. And equally important, as an economic engine, sales of motor vehicle performance and appearance enhancement parts and accessories annually exceeds $15 billion, and employ nearly 500,000 people.

Mr. President, Senate Concurrent Resolution 44 seeks to authorize the Specialty Equipment Market Association, in consultation with the Architect of the Capitol and the Capitol Police Board, to conduct an event to showcase innovative automotive technology and motor sports vehicles on the Grounds of the Capitol on May 15 of this year.

I hope my colleagues will share in the recognition of the motor sports industry and support Senate Concurrent Resolution 44.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3513, AS MODIFIED

Mr. COATS. Mr. President, earlier this morning I proposed a unanimous-consent request to modify the amendment which I had offered last week, on Thursday, to the legislation that the Senate is currently considering. We have had some discussion with the Senator from California and others regarding this. I believe we have resolved concerns relative to this modification, at least regarding offering the unanimous-consent request.

So I now repeat my unanimous-consent request to modify the pending amendment to H.R. 3019.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 3513), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

''ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

''SEC. 245. (a) IN GENERAL.—The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

''(1) the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;

''(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

''(3) the entity attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

''(b) ACCREDITATION OF POSTGRADUATIE PHYSICIAN TRAINING PROGRAMS.—

''(1) IN GENERAL.—In determining whether to grant a legal status to a health care entity (including a license or certificate), or to provide such entity with financial assistance, services or other benefits, the Federal Government, or any State or local government that receives Federal financial assistance, shall deem accredited any post-graduate physician training program that would be accredited but for the accrediting agency's reliance upon an acceditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions. The government involved shall formulate such regulations or other mechanisms, or enter into such agreements with accrediting agencies, as are necessary to comply with this subsection.

''(2) RULES OF CONSTRUCTION.—

''(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

''(B) EXCEPTIONS.—This section shall not—

''(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions; or

''(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals who have voluntarily elected to perform abortions.

''(c) DEFINITIONS.—For purposes of this section:

''(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

''(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

''(3) The term 'postgraduate physician training program' includes a residency training program.''.

Mr. COATS. Mr. President, let me just state, during our discussion last Thursday on this amendment, which I will describe in a moment, questions were raised by the Senator from Maine relative to some language and the interpretation of that language as it affected a portion of the bill providing for an exemption to the accreditation standards based on a conscience or moral clause relative to performing abortion.

We have discussed that question over the weekend and made some clarifications in that language, which is the purpose of the modification. The Senator from Maine spoke this morning and the Senator from Tennessee spoke, relative to the procedures of the Accrediting Council for Graduate Medical Education, its involvement in accrediting medical providers and medical training programs, and support for the Coats amendment to this particular bill.

Let me describe that very briefly. The problem that we had here is that, prior to 1996, the ACGME, which is the American Council on Graduate Medical Education, did not require hospitals or ob/gyn residency programs to perform induced abortions or train to perform induced abortions. That was done on a voluntary basis. Until 1996, hospitals were only required to train residents to manage medical and surgical complications of pregnancy, that is those situations where treatment of life-threatening conditions to the mother or complications of a spontaneous abortion, miscarriage, or stillbirth, was part of the medical training.

At the same time, 43 States have had in place statutes, as well as the Federal Government, to protect individual residents in hospitals from having to perform on a mandatory basis, or having to train on a mandatory basis, for the performance of induced abortions or abortion on demand. These procedures generally apply regardless of the reason to refuse to perform an abortion.

Then in 1996, the Accrediting Council on Graduate Medical Education changed its standards, indicating that failure to provide training for induced abortions could lead to loss of accreditation for these hospitals and for these training programs.

The reason this is important is that a great deal of Federal funding is tied to this accreditation. The Medicare reimbursement is tied to accreditation, loan deferral provisions are tied to accreditation, and a number of other federally provided support for hospital providers and for training programs for ob/gyn and others are tied to the accreditation. So, if the accreditation is removed, these institutions could lose their Federal funds.

So the language that I offered in the bill that we offered to the Senate basically said that, one, we do not think it is right that the Federal Government could discriminate against hospitals or ob/gyn residents simply because they choose, on a voluntary basis, not to perform abortions or receive abortion training, for whatever reason. For some it would be religious reasons; for some it would be moral reasons; for some it could be practical reasons; for some hospitals it could be economic reasons. There are a whole range of reasons why a provider may choose not to engage in this mandatory practice.

But at the same time, we did not feel that it was proper for us to mandate to a private, although somewhat quasi-

public, accrediting agency how they determine their accrediting standards. We do not want to prevent ACGME from changing its standards. It has every right, even though I do not agree with all of its requirements, to set its own standards.

Second, we do not want to prevent those who voluntarily elect to perform abortions from doing so. Nobody is prevented in this legislation from voluntarily receiving abortion training or from voluntarily offering that training in their hospital, nor do we prevent the Government from relying on those accreditation standards. I think you can make a case that the Government, by relying on a quasi-public entity for accreditation, may be too narrowly restricting in scope in terms of determination on Federal reimbursement, but we are not addressing that issue.

So this legislation does not prevent the Government from relying on the ACGME for accreditation. We do not prevent the Government from requiring training of those who voluntarily elect to perform abortions.

What we do do is attempt to protect the civil rights of those who feel that they do not want to participate in mandatory abortion training or performance of abortions. That is a civil right that I think deserves to be provided and is provided in this legislation.

It is a fundamental civil right, as a matter of conscience, as a matter of moral determination, as a matter of any other determination, as to whether or not this procedure, which is controversial to say the least, ought to be mandated and whether that is a proper procedure for those who then are forced to participate in programs in order to receive reimbursement from the Federal Government for various forms of support. We do not believe that it is.

There was some question about the so-called conscience and morals clause that was included in the accrediting standards, but we had testimony before our committee from a number of individuals who felt that that exception language was unnecessarily restrictive for those who felt, because they were a secular hospital or because they were residents in a training program at a secular hospital, that conscience-clause exception would not protect them from the loss of accreditation or protect their basic civil rights.

I have just some examples of that. The University of Texas Medical Branch at Galveston wrote to us essentially saying, and I quote:

> Those involved in resident education at the University of Texas Medical Branch made a decision in the mid 1970's not to teach elective abortion as part of our curriculum. This decision was based, originally, on concerns other than moral issues. We encountered two significant problems with our Pregnancy Interruption Clinic, or PIC as it was known at the time. First, the PIC was a money loser. Since there was no reimbursement for elective abortions from either State funds or Medicaid a great deal of expense of the PIC was underwritten by faculty professional income. Faculty income was used without regard to the moral concerns of individual faculty members who generated the income. A second problem was more significant and involved faculty, resident, and staff morale. Individuals morally opposed to performing elective abortions were not required to participate. This led to a perception, by trainees performing abortions, that they were carrying a heavier clinical load than trainees not performing abortions. As fewer and fewer residents choose to become involved in the PIC, this perceived maldistribution of work became a significant morale issue. Morale problems also spilled over to nursing and clerical personnel with strong feelings about the PIC. It is a gross understatement to say that elective abortion is intensely polarizing. Because of bad feelings engendered by a program that was a financial drain, the PIC was closed.

So here is a respected hospital, the University of Texas at Galveston, which basically said the moral, conscience reasons were not basically the reasons why this particular hospital chose not to participate in the program.

They followed that up with a letter, which I will quote again. They said:

> Because we are a secular institution, and a state supported university, we would have no recourse under the new ACGME ''conscious clause,'' except to provide such instruction to our trainees. The ACGME ''conscious clause,'' providing an opportunity to invoke a moral exemption to teaching elective abortion, is restricted to institutions with moral or religious prohibitions on abortion. It does nothing to protect the faculty at State-run universities.

I have a similar letter from Mt. Sinai Hospital:

> Your amendment is desperately needed to protect the rights of faculty; students and residents who have no desire to participate in abortion training but who do not work in religious or public hospitals.
>
> Since our institution would not, therefore, ''qualify'' as one with a moral or legal objection—

Therefore, the moral and conscience clause would not protect them.

Albany Medical Center in New York offers the same, and the list could go on and on.

So, essentially, what we are saying here is that the amendment that I am offering is clearly one which is designed to protect the basic civil rights of providers and medical students in training who elect, for whatever reason, whether it is a moral or conscience reason or whether it is an economic, social or other reason, not to perform abortions.

We do not believe that it is proper for the Federal Government to deny funds on the basis of lack of accreditation if that lack of accreditation is based on the decision of a provider or a program that they do not want to participate in a mandatory training procedure for induced abortions.

I am pleased we were able to work out language with the Senator from Maine, which addressed her concerns to make sure that we did not prohibit ACGME from accrediting or not accrediting, because there are other reasons why facilities might not deserve accreditation. Federal funds certainly should not flow to those hospitals and to those programs that do not meet up to basic medical standards that the Government requires for its reimbursement.

By the same token, we do not think that injecting a forced or mandatory induced abortion procedure on these institutions, for whatever reason, is appropriate. That is the basis of the amendment. The amendment has now been offered. It has the support of the Senator from Maine.

The Senator from Tennessee, Dr. FRIST, spoke this morning. He certainly knows more about these procedures and more about the medical concerns than this Senator from Indiana. He has looked this bill over very, very carefully and believes that the language incorporated in the Coats amendment is most appropriate, and he is supportive of that. I think that is a solid endorsement from someone who clearly understands the issue in great depth and understands the accrediting process, supports that process, but believes there ought to be this exemption.

Mr. President, I have not yet asked for the yeas and nays on this. My understanding is that the vote will be ordered, along with other votes, after 2 p.m. So I will now ask for the yeas and nays for this amendment.

The PRESIDING OFFICER (Mr. SMITH). Is there a sufficient second? There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. COATS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 15 minutes.

Mrs. BOXER. I wanted to clarify that. I know we lost some time here. So I have 15 minutes remaining to discuss both amendments, is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. Thank you very much, Mr. President.

I want to explain why it was that it took the Senate extra time to get to this point of debating these amendments. The modified amendment came to the attention of my staff, in its final form, late last night. I was on a plane coming back from California, where I had a full schedule. When I returned at midnight, clearly, it was too late to contact my colleagues, and, therefore, I needed some time to really read the amendment and understand its implications, because the amendment, as modified, is of grave concern to me.

The longer I have to look at this amendment, the more concerned I am about it. I would like to explain to my colleagues why. Before I do that, I want to explain also that those in this

community who support a woman's right to choose strongly oppose the Coats amendment. Those groups—who oppose this amendment are the Women's Legal Defense Fund, the National Abortion Federation; the American Association of University Women; the National Women's Law Center; Planned Parenthood, and the National Abortion Reproductive Rights Action League.

I think it is very, very clear why. It is because if you look at what could happen as a result of the Coats amendment, you quickly come to the conclusion, Mr. President, that theoretically —and we hope it would not happen— but it is possible under this amendment that every single medical school in this country could stop teaching their residents how to perform safe, legal abortions and still get Federal funding.

I really do feel that is the intent because I know there are those in this Senate, and I have great respect for them, who would like to outlaw a woman's right to choose. They cannot do it up front, so they try to do it in every which way they can. This is just one more example like they said, if the woman is in the military she cannot get a safe abortion in a military hospital. This is the kind of theory that you see being practiced on the floor. I say to my friends, they have every right to do this. I respect their right to do it. But I strongly disagree.

Under current circumstances, for a medical school with an ob/gyn Residency training program to get Federal funds they must teach their residents how to perform safe, legal abortions unless the institution has a religious or moral objection, called a conscience clause. I fully support that conscience clause. I do not believe that any institution that has a religious or moral problem should have to teach their residents how to perform safe, legal abortions. However, under this modified amendment by Senator COATS, any institution can stop teaching abortion and still get the Federal funds even if they have no religious or moral objection.

For example, let us suppose the anti-choice community targets a particular hospital or medical school and day after day stands outside there protesting and demanding that they stop, and finally the institution throws up its hands and says, ''You know, it isn't worth it. We will still get our Federal funds. We'll just stop teaching how to perform safe, legal abortions.''

What does that mean? It seems to me that as long as abortion is legal in this country—and it is legal under Roe versus Wade, and it has been upheld to be legal by the Court—what we are doing here is very dangerous to women's lives, because if we do not have physicians who know how to perform these safe abortions, we are going to go back to the days of the back alley.

My friends, I have lived through those years, and no matter how many people think you can outlaw a woman's right to choose, in essence, even when abortions were illegal in this country, they happened. They happened in back alleys. They happened with hangers. Women bled to death and women died. We need doctors to know how to perform safe, legal abortions. It is very, very important.

What if a woman is raped? What if she is a victim of incest, and she is in an emergency circumstance, and they cannot find a doctor who knows how to do a safe, legal abortion? That is the ultimate result of this. That is why so many organizations who care about women, in my opinion, are opposing this amendment.

We need trained and competent people to take care of the women of this country. If they have a religious or moral problem, I strongly support their right not to have to learn how to perform such an abortion. But if they have no conscience problem, if the institution has no conscience problem, it is in the best interests of all of us that we have doctors who are trained, competently, to perform surgical abortions until there is another way for a woman to exercise her right to choose that is safe.

I ask the Chair, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes, 45 seconds remaining.

Mrs. BOXER. I ask that the President advise me when I have 5 minutes remaining. I will retain those 5 minutes.

AMENDMENT NO. 3508

Mrs. BOXER. Mr. President, I have an amendment that I ask for the yeas and nays on right now, if I might, dealing with the District of Columbia. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

(Mr. COATS assumed the chair.)

Mrs. BOXER. I want to thank my colleague for allowing me to have an up-or-down vote. It is quite simple. Mr. President, in this country called America, there are 3,049 counties and 19,100 cities. It seems to me extraordinary that in this bill that is before us, there is only one entity that is singled out and only one entity that is told that it cannot use its locally raised funds to help a poor woman obtain an abortion.

We already have strict control on the use of Federal funds. No Federal Medicaid funds may be used by any city, county, State or entity for abortion. But we have no stricture on what a local government can do, except in this bill where we tell Washington, DC, they cannot use their own property taxes to help such a poor woman, they cannot use fines they collected to help such a poor woman. I think it is a rather sad situation.

I know my colleagues will get up here and say, ''We think we can tell Washington, DC, to do whatever we want it to do.'' If we want to do that with Federal funds, that certainly is an argument, but not with their own locally raised funds.

So, Mr. President, what I simply do by my amendment, by adding the word ''Federal'' my amendment clarifies a point. My amendment guarantees that Washington, DC, will be treated as every other city and every other county in this country. They may not use Federal funds—although, by the way, I object to that, but I know I do not have the votes to overturn that situation—but I am hoping that we can get the votes to stand up and say that local people can decide these matters on their own.

What always interests me in this Republican Congress is, we hear speech after speech about ''Let the local people decide, let the States decide. Why should Big Brother come into cities and localities and States and decide for them?'' Yet, when it comes to this issue, somehow this philosophy goes flying out the window and we are going to tell a local elected body how they should treat the poor women in their community.

Now, a woman's right to choose is the law of the land. But if she is destitute and she is in trouble, it is very hard for her to exercise that legal right. And if the locality of Washington, DC, wants to help her, I do not think we should stop them.

Thank you, very much. I reserve the remainder of my time.

Mrs. MURRAY. Mr. President, I rise in strong support of the amendment offered by my colleague from California, Senator BOXER. I am proud to be a cosponsor of this measure and I urge all of my colleagues to do the right thing and vote for our amendment.

Since 1980, Congress has prohibited the use of Federal funds appropriated to the District of Columbia for abortion services for low-income women, with the exception for cases of rape, incest, and life endangerment.

From 1988 to 1993 Congress also prohibited the District from using its own locally raised revenues to provide abortion services to its residents. I am pleased that for fiscal year 1994 and 1995 Congress voted to lift the unfair restriction on the use of locally raised revenues, and allow the District to decide how to spend its own locally raised moneys.

There is language in this bill that would coerce the District into returning to the pre-1994 restrictions. This bill is a step backward, and we shouldn't allow it to pass. Congress does not restrict the use of dollars raised by the State of Washington or by New York, Texas, California or any other State—because Congress does not appropriate those funds.

Why should our Nation's capital be the solitary exception? It shouldn't be the exception, Mr. President, and our amendment ensures the District of Columbia will have the same rights as

every locality—every county and city—to determine how to spend locally-raised revenue.

I know why the District is being targeted in this way. And so does every woman, and so should every American. This is just another of the many attempts by some Members of Congress to chip away and take away a woman's right to choose.

It sure is ironic. That in this Congress, where the mantra has been ''States know best'' month after month, the majority party now wants to micro manage DC's financial decisions.

Mr. President, restricting the ability of the District to determine how it is going to spend its locally raised revenue is the ''Congress knows best'' approach at its worst. I find it so very hypocritical that virtually every debate over the past year has touted local flexibility and vilified Washington, DC's presence in policy making.

We should allow the District the same right as all other localities—to choose how to use their locally raised revenue. We should not single out our Nation's capital. We should pass the Boxer amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair informs the Senator the time will be charged to the Senator unless she asks unanimous consent that her remaining time be reserved.

Mrs. BOXER. I make a unanimous-consent request that my remaining time be reserved.

The PRESIDING OFFICER. The Senator has 6 minutes 6 seconds remaining, and that time will be reserved.

The quorum call will be charged to no one at this particular point.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition for a few moments this morning to speak in morning business for a period not to exceed 5 minutes. I ask unanimous consent that I may be permitted to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized to speak up to 5 minutes.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER. Mr. President, before yielding the floor, I have been asked to take a limited leadership role here.

PROVIDING FOR THE EXCHANGE OF LANDS WITHIN ADMIRALTY ISLAND NATIONAL MONUMENT

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 213, H.R. 1266.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1266) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MURKOWSKI. Mr. President, I rise to join with the senior Senator from Alaska to urge my colleagues to support H.R. 1266.

This bill ratifies a land exchange agreement in Alaska between the Forest Service and the Kennecott Greens Creek Mining Co. The agreement will help provide 300 jobs in Alaska, promote sound economic and environmentally responsible resource development, and further the interest of land consolidation on conservation systems in the Tongass National Forest.

Mr. President, this bill has bipartisan support. Chairman DON YOUNG was the author of the bill in the House and as a result of his efforts, the bill passed the House of Representatives with support from the ranking member of the Resource Committee. Chairman DON YOUNG deserves credit for his hard work on this bill.

In the Senate, the Greens Creek Land Exchange was reported out the Energy and Natural Resources Committee by unanimous consent. The bill is supported by the Forest Service and local environmental organizations.

Mr. President, let me explain the history of the Greens Creek Mine and this agreement. The Greens Creek Mine was located under the mining laws while the area was still part of the general National Forest area. As you may know, in 1980 the area became part of the Admiralty Island National Monument through the enactment of the Alaska National Interest Lands Conservation Act [ANILCA]. Because this mine had world-class potential, Congress made special provisions in the act to ensure that the mine could go forward.

I was pleased to participate in the opening ceremonies of the Greens Creek Mine. The mine provided high-paying jobs to Juneau residents and supported the local economy. Unfortunately, low metal prices caused the temporary closure of the mine in April 1993. Kennecott worked diligently to reorient its mining development plan to permit the mine to reopen. In fact, they recently announced plans to reopen the mine during the next several months.

Mr. President, this land exchange is the combination is a 10-year effort by Kennecott to deal with one of the problems created by the special management regime in ANILCA. Although that regime permitted the perfection and patenting of certain claims, it did not provide an adequate time for exploration of all the area of mineral potential surrounding the Greems Creek Mine.

Since Kennecott determined that it would be unable to fully explore all the areas of interest during the 5-year time period it was allowed to provide exploration under ANILCA, it has been searching for a way to explore these areas.

They have engaged in a multiyear negotiation with the Forest Service to develop a land exchange which would permit access to the area in a manner which is compatible with the monument designation provided by Congress in 1980.

In other words, the land exchange allows exploration under strict environmental regulations. The terms of the exchange require Kennecott to utilize its existing facilities to the maximum extend possible to ensure minimal changes to the existing footprint.

Additionally, the development of any areas once explored would be under the same management regime by which Kennecott developed the existing Greens Creek Mine.

This land exchange also provides other major benefits to the Government, the community, and the environment.

At the end of mining, Kennecott will revert its existing patented claims and any other claims which it holds on Admiralty Island to the Federal Government.

Kennecott will also fund the acquisition of over 1 million dollars' worth of inholdings in the Admiralty Island National Monument and other conservation system units in the Tongass.

Finally, the exchange improves the likelihood that 300 jobs will return to the Juneau area for many years to come.

Mr. President, the Greens Creek Land Exchange is good policy. I congratulate Kennecott and the Forest Service for negotiating a fair agreement and urge the President to sign the bill as soon as possible.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1266) was considered and passed.

Mr. SPECTER. Mr. President, I make the request of the clerk, who is asking me to do that on behalf of leadership, to discount any personalized knowledge as to the complexities which we have ruled upon.

I have been asked to further make this request for unanimous consent.

AMENDING THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Mr. SPECTER. Mr. President, I ask unanimous consent that the Labor

Committee be discharged from further consideration of H.R. 1787, and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1787) to amend the Federal Food, Drug, and Cosmetic Act to repeal the Saccharin notice requirement.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

Again, I make a disclaimer, Mr. President, that I am making this statement at the request of the clerk in the absence of leadership where more detailed knowledge is present as to the specifics involved.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator's reservation is duly noted.

So the bill (H.R. 1787) was considered and passed.

Mr. SPECTER. I thank the Chair.

In the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I understand the time is controlled. I yield myself 12 minutes from Senator BOXER.

The PRESIDING OFFICER. The Senator from California has 5 minutes remaining. Senator MURRAY has 7½, and Senator FEINSTEIN has 7½.

Mr. KENNEDY. I yield myself 3 minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3508

Mr. KENNEDY. Mr. President, very briefly, there are two major proposals before the Senate this afternoon. One proposal prohibits the District of Columbia from using locally raised funds to provide abortions for its residents. It allows the Congress of the United States to undermine the constitutional rights of poor women and thus, their ability to receive an abortion.

We do not interfere with the disbursement of local funds in any of the States because it is inappropriate to dictate State and local policy in this area. It is equally inappropriate to impose the will of the Federal Government on the District of Columbia. This is the long arm of the Federal Government reaching in and dictating the health conditions for needy women in the District. Many of these women have determined that they must have an abortion but, because they are poor, they need assistance from the District of Columbia. District of Columbia elected officials should have the ability to allocate funds to women in these circumstances.

Second, I reject the belief that the Senate should determine medical residency training criteria as it pertains to issues regarding women. This is the first real attempt to superimpose Congress' view on obstetric and gynecological medical training. Today, we are saying we will not require that medical training institutions provide abortion training for ob/gyn residents. Tomorrow, we may be making policy and setting standards in another area of medical training. Congress should leave the practice of medicine to the doctors. In this case, a highly respected board is attempting to insure that we have the best-trained physicians in the world. We have already acceded to a conscience clause that protects religious and moral beliefs of institutions and residents. Those individuals and institutions will not be required to participate in certain medical procedures that violate their conscience or their religious training. But to go beyond that by passing a law that substitutes congressional and political opinion for medical decisionmaking is wrong. Congress should not interfere with current ACGME policy. It is an inappropriate use of our authority. It is bad policy and it is bad medicine. We should reject this proposal.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, I yield whatever time remains.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield myself 1 minute just to say to the Senator from Massachusetts how grateful I am that he expressed his views on the floor. This has been a very difficult morning because there was a modified amendment which, unfortunately, I could not get to analyze until this morning. And the Senator is right. We already have a conscience clause. Any institution who has a moral or religious objection to teaching abortion is covered under current law, and what this would say is that any institution, even if they did not have a moral or religious objection, would not have to teach residents how to perform safe, competent abortions so that our women are safe.

On the matter of Washington, DC, I wish to tell the Senator that there are 3,049 counties, 19,100 cities, and every one of them has the right to spend their locally raised funds as they wish. To pick out one entity and reach the long arm of the Federal Government into it is really unfair and goes against the supposed spirit of this Republican Congress. So I thank my friend very much.

The PRESIDING OFFICER. The Senator has used her 1 minute.

Who yields time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maine has 30 minutes allocated to her under the previous order.

AMENDMENT NO. 3513, AS MODIFIED

Ms. SNOWE. I will consume as much time as I require. I thank the Chair.

I rise today to join the distinguished Senator from Indiana in offering an amendment that I think will address many concerns. In fact, I am pleased to have the opportunity to clarify some of the misinformation that has been expressed regarding this compromise amendment.

No one can question whether or not it is appropriate to ensure quality care for women in America. No one can question that we need to maintain accreditation standards for medical institutions across this country. The fact remains that this amendment on which I worked in conjunction with the Senator from Indiana does not allow Federal funds to go to an unaccredited institution because they fail to provide for abortion training.

Nothing could be further from the truth. This amendment accomplishes two things. One, it does protect those institutions and those individuals who do not want to get involved in the performance or training of abortion when it is contrary to their beliefs. Second, and just as important, it preserves the quality of health care that will be provided to women because it protects the universally accepted standards—there is only one set of standards—of the Accreditation Council for Graduate Medical Education that provides for quality standards for ob-gyn programs. So this amendment would not only make sure that women have access to quality health care with the strictest of standards when it comes to quality and safety but it also will ensure that they have access to physicians who specialize in women's health care.

I do not think anybody would disagree with the fact—and I am prochoice on this matter, but I do not think anybody would disagree with the fact that an institution or an individual who does not want to perform an abortion should do so contrary to their beliefs. But at the same time we have to make sure we preserve the accreditation standards that are established by the Accreditation Council for Graduate Medical Education, that provides for the standards for more than 7,400 medical institutions in America.

We want to make sure we do not undo 50 State licensure boards with respect to overturning or overriding this one set of accreditation standards. That is what we were dealing with, and hence this compromise here today, because whether we like it or not—and certainly I do not like it—in the House of Representatives they have already passed legislation that would allow Federal funds to go to an unaccredited institution. That is a fact, and that is unacceptable. That is why I worked with the Senator from Indiana to ensure that would not happen.

Contrary to what has been said here today, 88 percent of medical institutions in this country do not provide abortion training even though it is implicitly required in the accreditation standards. So we are not broadening this issue to provide for an exodus from performing or participating in abortion training. Eighty-eight percent of the institutions currently do not provide it, even though there is a conscience clause.

So this legislation is saying we do not want what is going to happen in the House of Representatives with the accreditation standards being dismissed and abandoned. That is an issue and that is a reality. That is why I worked with the Senator from Indiana to ensure that we preserve the one set of standards in America that the Federal Government relies on for the purposes of Federal funding, that medical students rely on for the purposes of Federal funding, that physicians rely on in terms of judging standards, that patients and consumers and States rely on in terms of determining their licensing procedures.

So the choice was not to address the reality of what is taking place in the House or making sure, more importantly, that the Senate was on record in opposition to that kind of language and developing a compromise with the Senator from Indiana to ensure that we maintained the accreditation standards for all medical institutions to advance the quality health care for women and at the same time to allow training for abortion for those who want to participate in that training or for the institutions who want to provide it. Because that is the way it is done now. That is the status quo, and that is not changing.

I know consensus and compromise is not the norm anymore. I think it is important on this issue because abortion is a very divisive issue. No one can challenge me on where I stand on this issue. But I think it is also important to make sure that we preserve quality health care for women in America. I do not want to see these accreditation standards undone, and that is what the legislation that was originally pending would have done. The House language went much further than that. This is a compromise to preserve those standards. This is a compromise to ensure that it does not jeopardize the 273 ob-gyn programs that otherwise would have been affected if this compromise was not before us. That is the risk, and that is why I worked with the Senator from Indiana to ensure that would not happen.

It is inappropriate for this institution to be involved in the accreditation standards or curriculum, but that is not what we are dealing with here. It has already happened. I want to be able to go to conference to ensure that the House language is not adopted, and the best way to do that is to ensure we can pass language that everybody could agree on, that represents a consensus and does not jeopardize the kind of care that women in America deserve. That is what this compromise amendment is all about.

I urge adoption of this compromise amendment. To do otherwise is to risk getting the House language in the final analysis. That, indeed, would set a very dangerous precedent.

Mr. President, I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. COATS. Mr. President, I thank the Senator from Maine for her diligent work with us in clarifying language here and for her articulate statement of support and the reasons why she supports this particular amendment. I will not repeat those, but I think they clearly make the case.

I would like to respond, also, to the Senator from California, who indicated that one of the reasons why she opposes the Coats amendment is that we will not have medical personnel adequately trained to perform abortions if necessary.

I would like to state for the record that an ACGME member—the certifying body—ACGME member submitted testimony to the Senate Labor and Human Resources Committee that the D&C procedures that are taught to every ob-gyn and procedures used in cases of miscarriages and those of induced abortion require similar experience. Numerous ob-gyn's have indicated to us—and I have a pile of letters here from them, indicating so, and I will be happy to submit those for the RECORD—that an OB-GYN who is trained, as they must be trained, to perform D&C procedures in the case of spontaneous abortions, are more than adequately prepared, should the need arise, to perform an induced abortion. Again, I have an extensive set of letters from those who are trained in those procedures, indicating that is the case.

In short, a resident needs not to have performed an abortion on a live, unborn child, to have mastered the procedure to protect the health of the mother if necessary. Maternal health will not be improved by forcing ob-gyn's to perform abortions on live fetuses if an ob-gyn will not do an abortion in actual practice. But it is clear from the record that they will have sufficient training to do so if necessary.

Second, I would like to just once again, for my colleagues' benefit, indicate the support of Dr. BILL FRIST, the Senator from Tennessee, for this amendment, who has stated, ''The Coats amendment will protect medical residents, individual physicians, and medical training programs from abortion-related discrimination in the training and licensing of physicians.'' ''However,'' he goes on to say, ''in our efforts to safeguard freedom of conscience, there are limits to what Congress can impose on private medical accrediting bodies. I believe this amendment stays within the confines of the governmental role and addresses the matter of discrimination in a way that is acceptable to all parties. The Congress is responsible,'' he goes on to say, ''for the Federal funding that is tied to accreditation by the ACGME, and as public servants we must ensure that there is no hint of discrimination associated with the use of public funds, and that is exactly what this amendment does.''

AMENDMENT NO. 3508

I would like to respond to the issue raised in the second amendment, the amendment offered by the Senator from California, relative to the use of funds for abortions in the District of Columbia. It is clear, as the Constitution so states, that article I, section 8, gives this Congress exclusive legislation over all cases whatsoever in the District of Columbia. It is stated in the Constitution clearly. It has been the basis on which we have operated, and it is a constitutional basis. In all matters relative to the District of Columbia, the responsibility for protection of those and implementation of those and establishment of those is established in the Constitution of the United States.

Public law 931–98, the home rule law, is consistent with this constitutional mandate, because it charges Congress with the responsibility for the appropriation of all funds for our Nation's Capital. The Congress, then, bears the ultimate constitutional and full responsibility for the District's abortion policies.

Second is the question of separating or mingling.

I ask the Senator from Maine if I could have an additional 2 minutes from her time?

Ms. SNOWE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Maine has 17 minutes remaining.

Ms. SNOWE. Yes, I yield the Senator 2 additional minutes.

Mr. COATS. Second, let me state this idea of separating Federal from District funds is nothing more than a bookkeeping exercise. Essentially, what would happen is that the so-called District funds would allow the local government to continue funding abortion on demand. I do not believe that is something this Congress endorses. I do not believe that is something that we should not deal with as

we have dealt before. The separation of Federal funds from District funds is a distinction without a difference, given the constitutional mandate and the practice of this Congress to appropriate all funds for expenditure in the District. We all know that the District has one of the more permissive, if not one of the most permissive abortion funding policies in the country. It is essentially unrestricted abortion on demand. I do not believe that is what this Congress wants to authorize for the District of Columbia, and we have, on numerous instances, addressed this issue.

In the conference report that is before us on the omnibus funding bill, this was discussed at length. The language that is incorporated is language that has been agreed to by the conferees. It does allow the use of funds for abortions to protect the life of the mother or in cases of rape or incest. Members need to understand that. What we are not trying to do, what we are opposing, what I am opposing and others are opposing, is the use of those funds for unrestricted abortion, abortion on demand. That is the issue before us on the Boxer amendment, and I urge my colleagues to vote no on that and vote yes for the Coats amendment, which is a separate issue, and that is the discrimination issue relative to the use of Federal funds for hospitals that provide abortion.

I yield.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Mr. President, Senator FEINSTEIN offered me her time. I ask unanimous consent that I be allowed to use her time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I ask the President how much time Senator FEINSTEIN has.

The PRESIDING OFFICER. Senator FEINSTEIN has 7½ minutes.

Mrs. BOXER. And I believe I have a minute and some?

The PRESIDING OFFICER. The Senator from California has 1 minute 15 seconds.

Mrs. BOXER. Mr. President, will you let me know when I have 5 minutes remaining?

The PRESIDING OFFICER. Yes, the Chair will.

Mrs. BOXER. Thank you very much, Mr. President. I want to respond to Senator COATS' point on the D.C. issue when he says, ''Look, we still allow them to use their own local funds for rape and incest but not for abortion on demand, not for unrestricted abortion.'' I want to make this point because over and over again in this debate by the anti-choice Senators, they use the terms abortion on demand and unrestricted abortion. They use the terms and ignore the holding of Roe versus Wade.

Anyone who has read Roe versus Wade knows the anti-choice Senators are not using the terms correctly. According to Roe, in the first 3 months of a woman's pregnancy, she has a right to choose. That is her legal right. The Supreme Court has decided it, and even in this more conservative Court, has reaffirmed it.

Clearly, a poor woman in Washington, DC, cannot get access to Medicaid funding, and the only option she would have, except for charity, would be Washington, DC's own locally raised funds, Mr. President. We do not stop any one of the 3,000-plus counties in this country from using their local funds if they wish, if they desire to help a poor woman. We do not tell the 19,100 cities that they cannot use their locally raised funds.

Washington, DC, does have property tax funds, and they have other funds that clearly are raised by them. If they feel it is a priority to help a woman in poverty in a desperate situation exercise her right to choose, I do not think the long arm of U.S. Senators ought to reach into that situation. That ought to be her own private personal decision and the decision of the locality to help her out.

So I hope that there will be support for the Boxer amendment.

AMENDMENT NO. 3513

As to the Coats amendment regarding Federal funding to medical schools, I want to reiterate what I think is a very important point.

The Senator from Indiana says, ''There is not going to be any danger, no one is going to be put in danger by this. So what if every single teaching hospital and medical school says, 'We will not teach our residents how to do surgical abortion.''' He says, ''Oh, they will have enough training in emergency areas, D&C's, and other ways.''

I do not think the Senator from Indiana would get up here and say it is not necessary for residents to learn how to do a bypass if it was their heart. ''Oh, you can just learn it from reading a book, you can look at a computer simulation.'' No one would ever suggest that.

I really have to say, with due respect, total respect for my colleague, that we are treating women in this circumstance quite differently than a person who had a heart condition, than a person who needed a kidney operation. We would never stand up here and say that doctors do not have to be trained in actually doing those procedures.

Mr. COATS. Will the Senator yield on that point?

Mrs. BOXER. I will yield on the Senator's time, because I am running out of time. I will yield on Senator SNOWE's time.

The PRESIDING OFFICER. The Senator asked to be notified when she had 5 minutes remaining. She has 5 minutes.

Mrs. BOXER. Why do I not yield to the Senator on Senator SNOWE's time?

Mr. COATS. If that is appropriate with the Senator from Maine.

Mrs. BOXER. I retain my 5 minutes.

Ms. SNOWE. I yield 2 minutes.

Mr. COATS. Mr. President, I just want to inform the Senator from California and our colleagues that what I stated was that on the basis of letters that we have received from a number of trained physicians in obstetrics and gynecology that the similarities between the procedure which they are trained for, which is a D&C procedure, and the procedures for performing an abortion are essentially the same and, therefore, they have the expertise necessary, as learned in those training procedures, should the occasion occur and an emergency occur to perform that abortion.

But to compare that with not having training for a bypass operation or kidney operation or anything else would not be an accurate comparison. There are enough similarities between the procedure they are trained for and the procedure the Senator from California is advocating they need to be trained for that is not a problem.

I ask unanimous consent to have printed in the RECORD, Mr. President, letters that I have received which so state that training is adequate.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
CATHOLIC PHYSICIANS' GUILDS,
Elm Grove, WI, March 23, 1995.

Re the amendment offered by Senator Coats to S. 555, Health Professions Education Consolidation and Reauthorization Act of 1995.

MEMBERS,
Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing on behalf of the National Federation of Catholic Physicians' Guilds which is the Catholic medical association in the United States, representing physicians and physician's guilds from all over the U.S. I respectfully urge you to support Senator Coats' Amendment, specified in Sec. 407. Civil Rights for Health Care Providers.

Senator Coats' amendment is certainly accurate in finding the ACGME's revised regulations on Residency Training for Obstetrics and Gynecology a violation of the civil rights of individuals and institutions that are morally or conscientiously opposed to abortion. The revised regulations would require, under penalty of loss of accreditation, Catholic Ob-Gyn training programs, or any training program for that matter, to provide for training in the performance of induced abortion. As you probably know, Catholic moral teaching holds abortion to be a grave moral evil. What might not be as clear is the fact that not only may a Catholic not participate in the procurement of an abortion, they may also not cooperate in any way with the procurement of an abortion; not only may they not offer training in abortions, they may also not provide for the opportunity of training in abortions. Such cooperation would give the cooperator a share of the culpability. The ACGME's regulation would be coercion, an attempt, under severe penalty for failure to comply, to force the institution to participate in the performance of an activity which it, in conscience, considered evil. This would seem to be a clear violation of the civil rights of the individuals and institutions involved.

It is of significant note that the ACGME's regulation revision in this matter comes at a

time when fewer and fewer Ob-Gyn physicians will do abortions. Ob-Gyn training programs that require abortion training are also declining in number. Physicians do not want to be involved in this procedure. Why they do not want to be involved is understandable. The medical profession has always held the moral belief that it's charge is the care of the life of the human being. The Obstetrician has always been the doctor who takes care of the mother and the baby until the baby is born and the Pediatrician can take over the baby's care. It is not in the professional ethos, in the soul of the physician, to take life. It is his or her charge to protect it! Abortion is a surgical procedure that intentionally takes the life of the baby and exposes the mother to a normally unnecessary operation. All of this violates the moral basis of the physician's code. The physician cannot be cast as a killer. He or she is a healer and an agent of the patient for healing. If the regulation mandate from the ACGME is an attempt to require physicians to perform a morally reprehensible act to serve a political charge, then the ACGME has stepped well beyond it's reason for existence.

The stated premise behind the ACGME's revision of the standards was to ''address the need for enhanced education in the provision of primary and preventative health care for women by obstetrician-gynecologists''. (ACGME Press Release, 16 Feb. 95) How does abortion training enhance the provision of primary and preventative health care for women? Primary health care involves the prevention of pathology. Pregnancy is not a disease that must be treated by termination. Primary health care provides medical care for the mother and the child she is carrying. Primary care cares for the well-being of mother and child. To talk of abortion as primary care is a distortion of the meaning of care. We cannot define killing as care. Does abortion training enhance preventative health care for women? What does it prevent? Exposure to sexually transmitted diseases? No. Pregnancy? It certainly doesn't prevent pregnancy. The woman is already pregnant (which means she is already carrying a very dependent human life whom the Ob-Gyn is normally committed to care for, too, working to ensure the baby's successful entrance into the world). What does it prevent, then? Responsibility for my actions? Maternal love? Enhanced education in the provision of primary and preventative health care for women could cover a lot of territory. The destruction of one of the most natural functions of the human person; the characterization of pregnancy as a pathological condition; the denial of professional responsibility to two patients when the pregnant woman comes to your clinic; the acceptance of a cooperative role with the woman in the ending of her child's life . . . these do not seem to fit into this educational objective.

It must be noted that all Ob-Gyn physicians are trained to do D&C's and to handle fetal demise. The training in the specific procedure of induced abortion, especially considering the great moral questions involved, probably has no place as a requirement in Ob-Gyn training. If the ACGME believes it is responsible for providing physicians to do abortions, it needs to find a way to do it other than mandating that training programs include this procedure in their curricula.

Thank you for reading through a somewhat lengthy letter. The issue really is significant. It deals with a controversial area; a procedure that is legal to perform, but morally questionable and lamented by most Americans as an indication that something has failed. Also at stake are the civil rights of those who morally and religiously object to induced abortion and who are now being told that they must, under penalty, provide for training in abortion procedures. There is, as Senator Coats points out, the effect of ''running out of business'' training programs that could not obey the ACGME mandate. And, there is the chilling advocacy of the notion that the doctor should be killer.

I ask you, on behalf of the many members of the NFCPG, and other medical professional men and women of conscience who cannot obey this regulation, to support Senator Coats' amendment and keep true choice available to us.

God bless you in your many varied and difficult duties.

Sincerely,

KEVIN J. MURRELL, M.D.,
President.

THE UNIVERSITY OF
TEXAS MEDICAL BRANCH AT GALVESTON,
Galveston, TX, March 23, 1995.

VINCENT VENTIMIGLIA,
Office of Senator Dan Coats,
U.S. Senate, Washington, DC.

DEAR MR. VENTIMIGLIA: I am a Professor of Obstetrics and Gynecology at the University of Texas Medical Branch at Galveston. It has come to my attention that Senator Coats, during upcoming hearings to reauthorize the Health Professions Education Act, will make efforts to protect the rights of Obstetrics and Gynecology training programs who choose not to teach techniques of abortion for contraception. For this I am deeply grateful.

The Commission which accredits training programs for residents in Obstetrics and Gynecology has made significant changes in requirements for accreditation. In the near future, ''hands on'' experience with elective abortion will be a required component of an approved residency training program. Although an individual trainee may invoke moral grounds to excuse himself from participating, no approved program, or program director, may excuse themselves.

Requirements for an accredited residency training are ultimately approved by the AMA's Committee on Graduate Medical Education (ACGME), and are listed in the Essentials of an Approved Residency. Under the current Essentials of an Approved Residency, an approved program is required to teach its trainees about management of abortion related complications, and provide some exposure to the technique of abortion. Currently a program may fulfill this requirement by providing instruction to residents in the care of women with spontaneous incomplete abortions or missed abortions. Requirements that become effective January 1 1996 specifically require training in the performance of elective abortion as a contraception technique.

Those involved in resident education at the University of Texas Medical Branch made a decision in the mid 1970's not to teach elective abortion as part of our curriculum. This decision was based, originally, on concerns other than moral issues. We encountered two significant problems with our ''Pregnancy Interruption Clinic,'' or the PIC as it was known at the time. First, the PIC was a money loser. Since there was no reimbursement for elective abortions from either state funds or Medicaid a great deal of the expense of the PIC was underwritten by faculty professional income. Faculty income was used without regard to the moral concerns of individual faculty members who generated the income. A second problem was more significant and involved faculty, resident, and staff morale. Individuals morally opposed to performing elective abortions were not required to participate. This led to a perception, by trainees performing abortions, that they were carrying a heavier clinical load than trainees not performing abortions. As fewer and fewer residents chose to become involved in the PIC, this perceived maldistribution of work became a significant morale issue. Morale problems also spilled over to nursing and clerical personnel with strong feelings about the PIC. It is a gross understatement to say that elective abortion is intensely polarizing. Because of bad feelings engendered by a program that was a financial drain, the PIC was closed.

Regardless of our reasons, the failure to teach the technique of elective abortion has never been a factor in the approval of our program by an accrediting agency. When the changes to the Essentials of an Approved Residency become effective next January, I will never be forced to participate in the performance of abortion; but I am distressed that, to keep my current job, I would be forced to cooperate in an educational mission that espouses these objectives. To me, a ''non-combatant'' working to advance amoral objectives bears significant culpability. How could a pro-life physician ever become a Program Director if required to teach this curriculum? How could any Catholic hospital support such a training curriculum, even if its trainees went elsewhere to obtain the skills? Shouldn't program directors have freedom of choice to decide if a morally controversial area is included in their program? Where does a pro life medical student obtain training in an abortion free environment?

Aside from my personal problems there are larger issues. Due to a number of forces, there recently has been a de facto segregation of the abortionist from the mainstream of practitioners of Obstetrics and Gynecology. The abortionist has become a specialist apart from the rest of us—they are practitioners of a peculiar paraspecialty. Trainees completing a residency program in Obstetrics and Gynecology recognize that the professional community considers the abortionist to be a physician on the fringe of respectability. In addition to this marginalization by the professional community, marketplace forces make a new practitioner avoid abortions. Patients do not tend to seek obstetric services from physicians heavily identified with abortion. Young physicians who start doing abortions soon have a medical practice which only does abortions. Residents, hoping to practice the breadth of our specialty, structure their new practices accordingly. Changing the Essentials of an Approved Residency is a deliberate attempt by those wishing to disseminate abortion services to try to reintroduce abortion into the ''everyday practice'' of our specialty. Their claim that unique technical skills are involved in performing elective abortions, that are different from technical skills involved in treating spontaneous abortions, is ridiculous and a clear attempt to mislead. The changes in training requirements were not made to serve an educational agenda—only a political agenda.

This change in the Essentials is coercive. It will make my participation in furthering an amoral educational objective a condition of employment. I currently have the right not to teach that which is morally repugnant. I hope my right can be protected.

Sincerely,

EDWARD V. HANNIGAN, M.D.,
Frances Eastland Connally Professor.

CONGRESS OF THE UNITED STATES,
Washington, DC, August 2, 1995.

DEAR COLLEAGUE: There is one thing that can be said with certainty about the abortion training mandate of the Accreditation Council for Graduate Medical Education: it has nothing to do with ensuring that medical residents receiving training will be better equipped to provide appropriate health care

to women and children. OB/Gyn residents already learn the techniques to handle pregnancy, miscarriages and complications from abortions and, in learning these, learn the medical techniques to handle those extremely rare situations in which an abortion is actually performed in response to a women's health emergency.

So, if the ACGME directive is not really about providing medically necessary training for medical residents, what is it about? Simply, to accomplish what 20 years of legalized abortion have failed to do: to make abortion a part of mainstream of medical care and force doctors and hospitals to do abortion as if a refusal on their part would constitute substandard medical practice. Can there be any doubt whatsoever that after they define abortion as a part of standard medical care for residents, they will move on to declare it standard care for every hospital? Can there be any doubt the directive that we would overturn is only the first step in a battle against every medical facility which would dare claim that abortion is not ''health care,'' that it is no part of standard medical practice?

The way in which ACGME and their friends in the pro-abortion community are going about this is deeply disturbing. They are not merely forcing doctors and hospitals to adhere to a particular ideology, they are requiring them in the name of practicing good medicine—to actually kill defenseless, unborn human lives. It is not enough for them that medical residents are already learning the techniques that could be used in abortion, but learning these without using them to destroy live human beings. Abortion advocates are not satisfied unless these techniques are used to kill unless residents resistance in this killing is actually numbered.

This attempt to overturn the healing ethic that is the very lifeblood of medical residency programs and medicine itself must be rejected. I ask that all Members support the provision in the bill to overturn the ACGME's directive and to oppose any motion to strike it.

Sincerely,

TOM DELAY,
Majority Whip.
TOM A. COBURN, M.D.,
Member of Congress.

ST. JOHN HOSPITAL
AND MEDICAL CENTER,
Detroit, MI, March 27, 1995.

DAN COATS,
Russell Senate Office Building,
Washington, DC.

This is a letter of support for any legislation that would prevent a residency program from being forced to implement a special kind of training that would be against the ethical and moral teachings of the institution in which the residency program resides. Specifically, we decry the decision made by the ACGME to mandate induced abortion training in all residency programs. There are major flaws in the reasoning of the ACGME: 1) an assumption that somehow abortions are not being carried out because of lack of providers: there is certainly no evidence of this locally or nationwide; 2) failure of the ACGME to recognize the fact that training to perform an induced abortion is exactly the same training as to perform a uterine evacuation procedure in the context of a missed abortion; 3) assuming that OB/GYN residency graduates are not performing induced abortion because they don't know how to; clearly every graduating OB/GYN resident from any program in the United States has the capabilities of being able to perform induced abortions but chooses not to on the basis of conscience and possibly also for a concern for personal rather than because they don't know how to do it; 4) by coming out so strongly for induced abortion, the ACGME creates further polarization in the United States over a very inflammatory issue when further polarization is counterproductive, 5) failing to recognize the philosophical integrity of an institution by arbitrarily forcing health care providers or individuals to do something against their institutional ethics.

In conclusion, the directors of the St. John Hospital and Medical Center's OB/GYN residency program strongly support legislation preventing coercion of a residency program toward implementing an unnecessary training that is against any institution's ethical and moral philosophy and thereby only contributes to the further polarization of the abortion issue in the United States.

MICHAEL PRYSAK, Ph.D., M.D.,
Program Director
and Vice Chief of Obstetrics.

PROVIDENCE HOSPITAL AND
MEDICAL CENTERS,
Southfield, MI, March 29, 1995.

Hon. DAN COATS,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COATS: I urge the Senate Labor and Human Resources Committee to adopt the amendment you offered to S. 555, Health Professional Education Consolidation and Reauthorization. This amendment would neither limit abortion services currently available in this country, nor would it prevent physicians from seeking the training they might choose in order to perform abortions. This amendment would not interfere with a woman's legal right to choose an abortion. This amendment is about the right of institutions to refuse participation or cooperation in procedures which directly violate their ethical codes.

The reason that our organization, Providence Hospital and Medical Centers, supports this is because:

As a Catholic institution, we hold that direct abortion is a grave evil. It is therefore not an optional procedure for us, since we are bounded by Catholic ethical standards of health care. Since Catholic teaching classifies the direct killing of innocent human life to be among the gravest forms of evil, cooperating with the new ACGME OB/GYN residency guidelines by sending our OB/GYN medical residents to other facilities for training in induced abortions may not be a moral option for us.

There are over 45 OB/GYN residency programs in Catholic hospitals, about a third of all OB/GYN residency programs in the United States. We cannot afford losing these programs. Trying to coerce health care facilities who are morally opposed to direct abortions into cooperating with the new ACGME guidelines will not resolve the issue of the dwindling number of physicians being willing to perform abortions in the United States. It will only exacerbate the situation.

How would mandating abortion training enhance the provision of primary and preventative health care for women? Primary health care involves the prevention of a pathology. Pregnancy is not a disease to be treated by termination. Furthermore, all OB/GYN medical residents are currently trained to do D&C's, to handle fetal demise, and are trained in techniques such as early induction of labor when the pregnancy constitutes a serious life-threatening condition for the mother.

Thank you for considering adoption of this amendment.

Sincerely,

SISTER JANE BURGER, D.C.,
Vice President—Mission/Ethics Services.

CHRISTIAN MEDICAL & DENTAL SOCIETY,
Richardson, TX, February 15, 1995.

CHRISTIAN DOCTORS PROTEST ABORTION TRAINING MANDATE

DALLAS, TX.—The Christian Medical & Dental Society (CMDS) announced today that it is protesting a medical council's decision to mandate abortion training as politically induced, personally coercive and professionally unnecessary. The Council for Graduate Medical Education, which oversees physician training, announced yesterday that obstetrical residents must be taught how to do abortions.

Dr. David Stevens, executive director of the Dallas-based CMDS, said, ''The Council is clearly out of touch with its constituency, the vast majority of whom oppose abortion on demand.'' He cited the results of an independent nationwide poll of obstetricians, conducted in 1994 by the PPS Medical Marketing Group in Fairfield, New Jersey, that revealed that over 59 percent of obstetricians disagreed with the statement that ''every OB/GYN residency training program should be mandated to include elective abortion training.''

Stevens says the Council's decision ''is apparently induced by political pressure from pro-abortion groups who want to force their belief system on a medical community that has largely rejected abortion.'' Stevens said that ''pro-abortion leaders are worried that few doctors are willing to perform abortions, based on personal convictions as well as the sheer repugnancy of the act itself.''

Stevens said that despite the Council's technical allowances for moral or religious objections, the practical effect of the Council's ruling will be to pressure every resident and teaching hospital into performing abortions.

''Throwing in a little verbiage about 'moral or religious objections' does little to remove the intense pressure these residents will now face to perform abortions,'' Stevens explained. ''The threat of failing to meet GME requirements will now be like a sword of Damocles hanging over their heads as well as over the heads of program administrators,'' Stevens noted.

''In everyday practice, when one resident attempts to opt out of the procedure, he or she can face intense pressure from colleagues who would be forced to take up the slack by performing more abortions,'' Stevens asserted. ''The mandate will also effectively discourage those opposed to abortion on demand from entering the OB/GYN field.''

CMDS chief operating officer Dr. Gene Rudd, an OB/GYN physician, explained that abortion training is unnecessary. ''The skills required to perform first trimester abortions are acquired through learning dilation and curettage (D&C) and other procedures involving spontaneous abortions,'' Rudd noted. ''Only the more controversial second and third trimester abortions require additional training.

''Does the Council's new policy mean,'' Rudd posited, ''that all OB/GYN's who have not been trained to do abortions are inadequately prepared for professional practice? Of course not! There is absolutely no practical reason to force residents to learn to perform abortions if those residents do not intend to perform abortions in practice. Abortion training need not be considered an integral part of OB/GYN training, as evidenced by the fact that roughly a third of all residency programs in the U.S. do not even offer it.''

To receive a free booklet on bioethical issues or for more information on the Christian Medical & Dental Society, contact CMDS at P.O. Box 830689, Richardson, TX 75083 or phone (214) 479–9173.

Mr. COATS. Mr. President, I will also just state, with what little time I have remaining, that the Coats amendment has the support of the AMA, the American Medical Association, the American College of Obstetricians and Gynecologists and the Accrediting Council for Graduate Medical Education. So the very organizations that are most directly involved in this have looked at the Coats amendment, and they have said it is a reasonable amendment and they not only do not oppose it, they support it.

So the very organizations that are held up as being the objectors to this are supporters of the Coats amendment, and I hope my colleagues will use that as a basis for their determination.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, on my own time, and I ask that I have 3 minutes remaining so that I can close on those 3 minutes.

Mr. President, let me say to my friend from Indiana, I just talked to the representative of the American College of Obstetricians and Gynecologists. They much prefer the existing policy. The reason they are on this particular amendment is because they feel this is far superior than the House language, but they prefer the current policy.

I will further say, just trying to exercise a little common sense—and, Mr. President, I feel many times we think these things are over our head—if your daughter found herself in a circumstance where she was raped, let us say, and, let us say she found out within a month that she was pregnant and she made the decision to end this pregnancy, she did not want to bear this rapist's child, and someone asked you, ''Senator, I've got two doctors available to do this. One of them performed a D&C a few times and never did a surgical abortion and one has the experience,'' I do not think it takes a degree in science to know that if you want her to be safe, you want her to go to someone who had the actual experience of performing a surgical abortion.

So I simply do not buy into this argument that because someone performed a D&C and it is similar—it is not the same thing, by any stretch of the imagination.

The PRESIDING OFFICER. The Senator has 3 minutes.

Mrs. BOXER. I ask for another 30 seconds. What this amendment would do is basically say you do not have to teach your ob-gyn residents how to perform surgical abortion and you would still get Federal funds. That is why it is opposed by Planned Parenthood, National Women's Law Center, American Association of University Women, National Abortion Federation, Women's Legal Defense Fund and NARAL. I think it is very clear where this comes down. This takes a situation and makes it dangerous for women.

Is it better than the House language? Sure it is, but why should we go forward with something that is worse than the current policy and I think open up a grave risk to the women of this country?

I retain the remainder of my time.

Mrs. FEINSTEIN. Mr. President, I oppose the Coats-Snowe amendment to the continuing resolution, S. 1594.

This amendment does two things: It puts into law a prohibition on Federal and State governments from discriminating against institutions that refuse to provide training for abortion procedures; and, it undermines the long-respected accreditation system by allowing programs to opt out of meeting the required medical training standards set by the ACGME and still receive Federal funds as if these programs met those standards.

The Coats-Snowe amendment is unnecessary, it undermines the integrity of Federal and State medical educational and licensing standards, and it represents another step in the erosion of freedom of choice in this country.

UNNECESSARY

First of all, this amendment is unnecessary because its antidiscrimination section is redundant. Although earlier standards set by the Accreditation Council for Graduate Medical Education, the accrediting body for medical residency programs, did require abortion training in ob-gyn residency programs, ACGME revised those requirements in February 1995 to explicitly exempt ob-gyn residents or institutions with religious or moral objections to performing abortions.

The policy states: ''No program or resident with a religious or moral objection will be required to provide training in, or to perform, induced abortions.''

The revised standard does not require programs to make alternative arrangements for abortion training. The only obligations on programs that do not provide the training are to inform applicants to the residency program that they do not provide abortion training and to not impede their residents from obtaining the training elsewhere for those who wish to do so.

These requirements strike a balance between the program's desire not to be involved in abortion training and fairness to residents who desire to obtain such training.

So I fail to see any need for this amendment other than to inject Congress further into the abortion decision and into questions of medical curriculum.

UNDERMINES ACCREDITATION SYSTEM

This amendment, even with the compromise language, still undermines the system for evaluating the quality of medical training programs in this country. Under current law, medical training programs may only receive Federal funds if they are an accredited institution.

This amendment creates a loophole by allowing entities to not meet educational and training standards for obgyns set by ACGME, the independent accrediting body of medical experts.

Does anyone in this body think Congress is better equipped to determine the educational requirements for a medical specialty such as obstetrics and gynecology than the medical professionals who actually practice medicine?

The ACGME, a private-sector, professional entity, is the only graduate medical education accreditation organization in the United States, responsible for evaluating over 7,000 medical residency programs throughout the United States.

ACGME is sponsored by five of the leading medical organizations in the Nation: the American Medical Association, the American Hospital Association, the American Board of Medical Specialties, the Association of American Medical Colleges, and the Council of Medical Specialty Societies.

Accreditation by medical experts provides the only method the Federal Government has to assure that residency programs meet appropriate medical training standards. Congress should not undermine that system by supplanting political judgment in place of medical expertise.

FEDERAL INTRUSION INTO STATE LICENSING STANDARDS

Accreditation is relied upon not just by the Federal Government, but also by State governments, private funding sources, students and patients to ensure quality in medical training.

Even if the Federal Government is willing to abandon educational standards in medical training, which it should not be, it should certainly not prevent the States from maintaining standards.

All 50 States currently require an individual to participate in an ACGME accredited residency program to obtain a right to practice medicine. The Coats-Snowe amendment would prevents States from requiring that obgyn residency programs meet ACGME standards in abortion training for those they are licensing to practice medicine in their States. The alternative for States that wish to maintain ACGME training standards is the loss of Federal funds.

This is an unconscionable intrusion by the Federal Government into State licensing procedures.

The ACGME standards, which were unanimously approved by the sponsoring medical organizations, reflect the input of physicians, medical specialists, hospital administrators, clinicians, researchers, and educators who bring decades of medical judgment to their decisions.

The Federal Government has long recognized the specialized expertise that formulates the ACGME accreditation standards and we should not reject that expertise now simply because the issue is abortion.

EROSION OF CHOICE

This amendment is yet another effort to chip away at a woman's right to

choose—a constitutionally protected right that the Supreme Court has clearly affirmed. This is one more in a series of steps Congress has taken to destroy that right:

The 104th Congress, in particular, has enacted an unprecedented number of laws threatening access to safe and legal abortion for many women:

Ending access to abortion for U.S. servicewomen overseas by barring abortions on military bases even if the woman used her own money. This is particularly harsh on servicewomen overseas where private facilities may be inadequate or abortion is illegal.

Prohibiting Federal employees from choosing health insurance plans with abortion coverage.

Maintaining the prohibition on Medicaid coverage for abortion for low-income women—except in cases of rape, incest, or life endangerment.

Denying access to abortion for women in Federal prisons.

Prohibiting the District of Columbia from using its own locally raised money to pay for Medicaid funded abortions.

Banning Federal funds for human embryo research.

Most significantly, Congress for the first time directly challenged Roe versus Wade by passing legislation that criminalizes a particular and rarely used abortion procedure and jails doctors who perform them.

All of these represent a steady march by the Federal Government into the abortion decision, and the weakening of a woman's constitutional right of personal privacy. The Coats amendment is yet another erosion of that right.

But it is an extremely important one. This is a direct attack on maintaining access to quality reproductive health care for women.

SHORTAGE OF DOCTORS

There is already a severe and escalating shortage in the number of physicians who are trained and willing to provide abortion services.

The total number of abortion providers in the country decreased by nearly 20 percent since 1982—from 2,908 to 2,380—in spite of a 10-percent increase in the population.

Eighty-four percent of the counties in the United States have no physicians who can perform abortions. States such as North and South Dakota have only one provider each.

Only 25 percent of obstetrician-gynecologists in the southern United States are trained to perform abortions. Only 16 percent of doctors in the Midwest are trained.

With the violence and harassment aimed at abortion providers increasing steadily in recent years, fewer doctors are willing to risk their lives or the safety of their families, to provide abortion services.

This amendment is a thinly veiled attack on freedom of choice. By making abortion unavailable, opponents of abortion will do what they cannot do legislatively—eliminate abortion as a safe and legal option for women in this country—one State, one doctor, one piece of legislation at a time. I strongly urge my colleagues to oppose this amendment.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I think it is always important that, when we are discussing legislation, we get a chance to read the legislation, in this case, the amendment that is before this body. The fact remains that this compromise amendment allows that anybody who wants to participate in training of abortions is allowed to do so. Nothing changes from the current circumstances. Any agency or institution that wants to provide the training of abortions to medical residents can do so. That is how the legislation reads. That is fact.

I regret the fact that there has been so much misinformation circulated about what this amendment does and does not do. This amendment avoids getting the U.S. Congress involved in setting accreditation standards, because that is exactly what is happening with the legislation that passed in the House of Representatives. The Senator from Indiana and I worked with the American College of Obstetrics and Gynecologists on this very language. Sure we prefer not to be here today discussing this issue, but that is not reality.

I am looking down the road. What I do not want to have happen is to have the U.S. Congress overturning the one set of accreditation standards that is predicated on quality care. If we do nothing, we run the very serious risk of having the U.S. Congress, because of the House language, overturn that one set of standards that everybody in America uses to determine the standards and the quality of care.

If you think that is a risk worth taking, then vote against this amendment. I do not happen to think so. This accreditation standard that we are talking about in this legislation is the accreditation standard that has been developed by the Accrediting Council for Graduate Medical Education. You might say, Who sits on this accreditation council? This is the one council that everybody looks to for setting the standards for medical institutions and residents in this country.

The organizations that sit on the council are: the American Medical Association, the American Hospital Association, the Association of American Medical Colleges, the American Board of Medical Specialties, the Council of Medical Specialties Societies. Then you have the residency review committee that reviews the ob-gyn programs that set the standards for the accreditation council, the American Board of Obstetricians and Gynecologists, the American College of Obstetricians and Gynecologists, and the Council on Medical Education of the American Medical Association.

These standards have been set with the conscience clause for medical residents since 1982. There has always been a conscience clause. That is what this legislation does. It allows for that. The accreditation council had to go a step further and establish a conscience clause for institutions because of a recent court case. That is a fact.

Not one institution in America—even when it was implicitly required in the accreditation council standards before their proposed change this year, they did not deny accreditation to one institution in America because they solely refused to provide abortion training. It was for a host of other issues.

So even when it was required, 88 percent of the institutions did not provide for abortion training. So this amendment basically preserves the status quo under the Accrediting Council for Graduate Medical Education, the one set of standards that everybody uses from the Federal Government on down.

If we fail to support this amendment, I hesitate to think what message it is going to send to the conference committee on this issue. It is important that the Senate send a very strong message that we reject the intervention of Congress in establishing a different set of standards. That is what this is all about.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes 20 seconds.

Ms. SNOWE. I would like to quote part of a letter that was sent by Dr. James Todd, executive vice president of the American Medical Association, which he sent in March 1995 to Senator KASSEBAUM. I quote:

> The Accrediting Council for Graduate Medical Education standards were developed by professional medical educators in the field of obstetrics and gynecology. The standards were developed with great sensitivity to the differing moral and ethical views about abortion and after substantial consultation with medical societies, program directors, and obstetrics and gynecology and other individuals and organizations.

So that is the standard that is embodied in this compromise legislation. If individuals who are participating in medical training programs want to get training for abortion, they will be allowed to do so. If an institution wants to provide it, they will be allowed to do so, just like it is under current circumstances.

We, also, preserve the accreditation standards of the one group in America that sets those standards, rather than running the risk of what has been established in the House of Representatives that says that Federal funds can go to any institution in America that is unaccredited if those standards mention abortion. That is what the legislation says in the House of Representatives. That is what we are dealing with here. They would allow Federal funds to go to any institution that is unaccredited if those institutions use the accreditation standards, of which there is only one set in America, if they refer to abortion in whatever way.

That is what I do not want to have happen in this body. That is why I supported and worked on this compromise legislation. The fact is the House goes further. Every State has a licensing board. Every State looks to the Accrediting Council for Graduate Medical Education standards in order to determine the licensing. So, if we are saying it does not matter anymore, then they are going to have to go back, and every State will have their own set of standards for medical institutions, of which there are 7,400 in America.

So is that what we want to create? I do not think so. I think there is a time when you have to accept what is before you and work together in reaching a consensus, which is what the Senator from Indiana and I have done. I think that is what the American people want. We are never going to get unanimity on the issue of abortion. Far from it.

But I do think it is important that we work together in the best way that we can to ensure that we have legislation that will benefit, in this case, the women of America, because this is who will be most directly affected by this legislation, and to ensure that our medical institutions are dealing with one set of accreditation standards rather than 50 different sets because that is, in essence, what will happen if we reject this amendment. That is the risk that we are running. That is why I would urge adoption of the Coats-Snowe amendment.

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I will yield to the Senator from Arizona for a question.

Mr. MCCAIN. I was going to call up an amendment of mine. I will be glad to wait until the Senator from California finishes.

Mrs. BOXER. I thank the Senator.

Mr. President, I am assuming we are debating the abortion amendment that is——

The PRESIDING OFFICER. That is correct.

Mrs. BOXER. Mr. President, I think the Senator from Maine makes a good point when she says we have to work together. That is what we did to get to where we are with the current policy. Current policy says that, if you are an ob-gyn resident with a religious or moral objection to learning to perform surgical abortion, or if you are an institution with a religious or moral objection to teaching abortion procedure, you do not have to learn it and you do not have to teach it.

I support that. I am pro-choice. I believe very much in Roe versus Wade and a woman having the right to choose to make this decision without Government interference. But I believe that if someone has a deep religious or moral objection, and they are a medical school or an ob-gyn resident, they should have the right to say, I really do not want to learn this. However, if there is no religious or moral objection, I believe that it is very important that these ob-gyn residents learn how to perform surgical abortion until there is another safe alternative. And what the Coats amendment does, regardless of the kind of spin we hear, is basically says to us that an institution that has no religious objection can just decide, because they bow to public pressure, we are not going to teach our residents how to perform surgical abortion, and we will get Federal funds anyway.

Now, just to stand up here and say, ''I have a compromise'' is not enough.

I ask unanimous consent that I be allowed to take Senator MURRAY's time. She has offered it to me.

The PRESIDING OFFICER. Is there objection?

Ms. SNOWE. Reserving the right to object. How much time is that?

The PRESIDING OFFICER. Senator MURRAY has 7½ minutes reserved.

Ms. SNOWE. How much time do I have remaining?

The PRESIDING OFFICER. Three minutes 30 seconds.

Mr. BUMPERS. Mr. President, was there some kind of an agreement about time?

Mrs. BOXER. Mr. President, if I may answer the question, I asked if I could take Senator MURRAY's time as it relates to the abortion issue. She has 7 minutes. I do not think I am going to use it all, but I need to make a couple of points.

Mr. BUMPERS. Mr. President, I have no objection. I was under the impression that we were going to recess at 12:30. I thought I would speak on the Murkowski Greens Creek amendment prior to the recess.

The PRESIDING OFFICER. The Senator is correct that we were to adjourn at 12:30.

Mr. BUMPERS. I do not understand the time. How much time is left on the Coats amendment?

The PRESIDING OFFICER. The Senator from Maine has 3 minutes 30 seconds. Senator BOXER used her time, and Senator MURRAY had reserved 7½ minutes.

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senator from Arkansas have 15 minutes to speak immediately following the hour of 12:40, and that we extend the time.

The PRESIDING OFFICER. That will require postponing the recess.

Mrs. BOXER. That is correct, until 12:55, so the Senator can have his 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. I say to my friend that we may not use all this time. I think it is important that when we stand on the floor of the Senate and talk about a compromise, we understand what we are compromising. A compromise was made on this issue previously. Institutions and ob-gyn residents already have a very generous and appropriate clause for a religious or moral objection. So not only individual doctors and residents in medical school, but also we, the institutions themselves, may exercise a conscious clause exemption.

So now to take that compromise and say we need to compromise because the House has some terrible language—Mr. President, I came here to fight for the issues that I think are right. I came here to fight for a woman's right to choose. I believe that there are some things you can compromise, and I was very pleased to support a religious conscience clause.

But if you take it further, theoretically, under the Coats amendment, every single medical school in this country could say that they were no longer going to teach residents how to perform surgical abortions, and they would still get their Federal funds.

Now, you can stand up here and read off everybody who belongs to the American College of Obstetricians and Gynecologists. The fact is that they prefer current policy. Yes, they are willing to go with the Coats amendment as a lesser of two evils, but why are we not fighting this, straightforwardly fighting this, and saying this is nonsense—saying it is nonsense that institutions who have no religious problem would still be able to not teach surgical abortion and get Federal funds?

On the issue of Washington, DC, they would be the only one of 19,000 cities to be told by the Federal Government what they can or cannot do with their local funds.

Mr. President, I see that the Senator from New Jersey has just come on the floor. We have precious few moments remaining. I would be very pleased if he is ready to yield to him the time I have remaining, if I might inquire how much that would be.

The PRESIDING OFFICER. There are 4 minutes 52 seconds of Senator MURRAY's time remaining.

Mrs. BOXER. I ask the Senator from New Jersey if he would like my remaining time?

Mr. LAUTENBERG. I would appreciate having some time from the distinguished Senator from California.

Mrs. BOXER. I yield the Senator from New Jersey the remainder of my time.

Mr. MCCAIN. Will the Senator allow me 30 seconds to make a request to modify my pending amendment?

Mr. LAUTENBERG. I am happy to do it, and I ask unanimous consent that it does not come off the remaining time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3521, AS MODIFIED

Mr. MCCAIN. Mr. President, I ask unanimous consent to modify my amendment No. 3521.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3521), as modified, is as follows:

On page 756, between lines 10 and 11, insert the following:

SEC. 1103. ALLOCATION OF FUNDS.

Notwithstanding any other provision of this title, funds made available under this title for emergency or disaster assistance programs of the Department of Agriculture, Department of Housing and Urban Development, Economic Development Administration, National Park Service, Small Business Administration, and United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the respective Department, Administration, or Service.

AMENDMENT NO. 3513, AS MODIFIED

Mr. LAUTENBERG. Mr. President, the one thing that mystifies me about some of the actions that we take here is, why is it that a few want to control the thoughts for so many? It is an assault on one's human rights, one's civil rights. It is inappropriate to be introducing this kind of legislation that has to deal with things other than the funding issue, and to intrude on people's private lives.

To suggest that the way to deal appropriately with the sparseness of funds is to take away people's right to learn as part of a medical education, and that they might lose their Federal funding—not might, but will—it is outrageous. God was good to me yesterday. My oldest daughter delivered a beautiful baby boy, and I was in that hospital on the maternity ward, and I was looking around, and I thought, thank goodness, they have the facilities that they have to be able to bring new life into being. I thought about those poor women who, at the same time, who may be distressed by the fact that there was a conception. It was bizarre, but in the news today was a woman who was 10 years comatose, was raped by someone in the institution she was in, and she delivered a child. Is that not ridiculous that we would object to having someone learn the abortion technique, so that in the case of a request or a need, that it is unavailable?

I think this is mischievous, I think it is unfair, and I think that the American people ought to rise up and say: Listen, enough of that stuff. You do what you want to. If you do not believe that a woman ought to have choice in an unwanted pregnancy, then do not do it. But why should someone else lose their right to make that choice if they are in such a situation? It is outrageous. We have these sneak attacks constantly—do it one way, do it another way. You violate the principles that we operate under. Privacy—that is what the Supreme Court said. Why is it OK for some people to decide what is appropriate, private or not? The courts have made a decision.

So, I hope, Mr. President, that both bodies will reject this. I hope the Senate will decline to support this. The notion that the city of Washington should not be able to use its own funds as it sees fit, I think, is a disgrace. So I hope that we will reject this invasion of privacy, of decency, if you will. This issue is not about abortion, it is about Federal intrusion into a private decision.

With that, I yield the floor back to my colleague, if any time remains.

The PRESIDING OFFICER. The Senator from California has 28 seconds left.

Mrs. BOXER. Mr. President, the ACLU opposes this amendment, as does the Center for Reproductive Rights, Planned Parenthood, and on and on. I just hope my colleagues will stand up and say that we already compromised and gave a good conscience clause. That was a compromise. Let us not open this up wide and have women's lives put at risk. Say ''no'' to this Coats amendment and ''yes'' to the Boxer amendment. Let us protect the lives of women.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, to sum up on where we stand with respect to the Coats-Snowe amendment, first of all, I remind this body what we are dealing with here. This amendment modifies an underlying amendment, and that underlying amendment would allow Federal funds to go to an unaccredited institution. That is what I wanted to prevent. That is the issue. That is what we are modifying through this compromise amendment, so that does not happen. Who supports this amendment? I think that is important since we are naming groups.

The Accreditation Council for Graduate Medical Education, which is the entity that establishes the one set of standards in America for the medical institutions; the American College of Obstetricians and Gynecologists—it is very important because we are talking about ob-gyn programs, and the medical association is made up of the profession of physicians. That is who supports this amendment. They say it is acceptable. They saw what I saw. What were the choices? What we will be facing here potentially is a major risk and threat to women's health.

The House language, which gives Federal funds to unaccredited institutions, basically guts the accreditation standards for ob-gyn programs if those standards mention ''abortion.'' Then we have the original—the underlying—amendment which we are now seeking to modify through this compromise amendment which would have also let funding go to unaccredited medical institutions.

Finally, you have the Coats-Snowe amendment—the compromise amendment—which says we will prevent Congress from engaging in the accreditation standards of medical institutions, will preserve those very important standards for health care in America, and at the same time we will also protect the accreditation standard when it comes to abortion. And that is what it has always been. Nothing has changed. It has always been that, if an individual, who is in a medical training program, does not want to get training for abortion, he or she does not have to. The same is true for institutions. They will be able to exempt the institution from providing that training if it is contrary to their belief. That is what it has always been. The accreditation council has never denied an institution accreditation based on the fact that they refused to provide abortion training. It was always for a host of other standard equality reasons.

I want to make sure that we preserve those reasons by preventing Congress from engaging in establishing, or overturning, accreditation standards which is our only guidepost for quality care for women in America.

That is the reality. I hope the Senate understands that because to do otherwise, if this amendment is rejected, is that we will face the language in the House which would basically gut and do away with accreditation for all medical institutions in America. That is not a choice nor a decision that we should have to make.

Thank you. I yield.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas has 15 minutes.

AMENDMENT NO. 3525

Mr. BUMPERS. Thank you, Mr. President.

Mr. President, I rise in support of the amendment by the junior Senator from Alaska [Mr. MURKOWSKI], which authorizes the Greens Creek Land Exchange. This amendment gives the Kennecott mining company 7,500 acres in the Admiralty Island Monument area of Alaska, in addition to the 340 acres they already own. They received the 340 acres they already own from the U.S. Government in the traditional way. They paid $2.50 an acre for it. For a while Kennecott had to shut down their silver, copper, and gold mine at the site because they were losing money. Now metal prices are higher and Kennecott has reopened the mine. I am glad they reopened the mine because it is good business for them.

But more than anything else, Kennecott has agreed to pay a 3-percent net smelter return royalty on everything they mine from the additional 7,500 acres they are receiving as long as metal prices are at least $120 a ton. If prices go below $120 a ton, their royalty will decline. I want to pay a little tribute to Kennecott. That is what I call good corporate citizenship.

They got the 340 acres for a song because of the 1872 mining law which continues to this day to be the biggest scam in America. And the U.S. Senate has consistently ratified that scam at the same time this body is willing to cut Head Start, student loans so kids can go to college, school lunches, Medicaid, 40 percent of which is used to keep elderly people in nursing homes, and another 40 percent for children. They are willing to cut all of that but not to address this scam.

As I say, I am happy to support the amendment of the Senator from Alaska. It is a good deal for them. It is a

good deal for the taxpayers of America. That is what we ought to be doing around here. But that is not what we are doing.

Mr. President, when I took this issue on 7 years ago, 7 long years ago, the price of gold in this country was $300 an ounce. Every time I have attempted to stop the giveaway of Federal lands for $2.50 an acre, I got my brains beat out. Fortunately, I have been successful in gaining passage of a moratorium on the processing of new mining patent applications.

The small progress I have made has been glacial. The mining companies want the taxpayers of this country to deed them Federal lands that belong to all of us for $2.50 an acre, $5 max, mine the gold, silver, copper, platinum, and other minerals off of this land and then, oftentimes, leave an unmitigated environmental disaster for the taxpayers to clean up—and not pay one thin dime.

When I first took this issue on, gold was $300 an ounce. And the mining industry said, ''Well, if you put a 3- or 4-percent royalty on us, we will go broke. We will have to shut down, and all of these poor miners will be out of a job.'' Today gold is $400 an ounce. And what do you think their argument is? ''We will lose money. We will have to shut down and put all of those poor miners out of work.'' And like Pavlov's dog, Senators in the U.S. Senate grab it like a raw piece of meat and think that is the most wonderful thing they ever heard—''Keep all of these people working, if we will just not put a royalty on it.''

We charge people 12.5 percent for every ounce of coal they take off Federal lands—12.5 percent. We make people who mine underground coal—a very expensive undertaking—pay 8 percent for every ounce of coal they mine. We make the natural gas companies and the oil companies pay 12.5 percent for every dollar's worth of oil and gas they take off Federal lands. And here is what we get for gold—zip. Here is what we get for silver—zip. And here is what we get for platinum—zip.

Do you know what platinum is selling for as of this moment? It is $413 an ounce. We have given billions and billions of dollars worth of platinum and palladium away in Montana in the process of doing it, and we will not get one thin dime out of it.

Just look at this chart: ''Miners Get the Gold and the Taxpayers Get the Shaft.'' Here is Barrick Gold Co., the stock of which has climbed in accordance with the price of gold. About a year and a half ago Secretary Babbitt was required by law to give Barrick Resources 11 billion dollars' worth of gold. Do you know what the Secretary and the taxpayers of the United States got for that $11 billion? Yes, $9,000. Ask Senators who own land with gold or silver or platinum or palladium: How many of you are willing to give the gold companies that kind of a deal? You know the answer to that question.

Then just recently the Secretary was required by law to give a Danish company—Faxe Kalk—1 billion dollars' worth of travertine. Travertine converts into a powder which has very special uses. What do you think the taxpayers of the United States got for that $1 billion? Why, they got a whopping $700—enough to take your family out to dinner about five times.

Do you think I am making this up? If you think I am making it up, invite all Senators who think this is just such a wonderful thing to come to the floor and refute it.

In the past year, we gave Asarco, a copper and silver company, lands that have underneath them—who cares about the value of the surface? We just gave Asarco 3 billion dollars' worth of copper and silver. What did the taxpayers get for their $3 billion? Yes, $1,745. We are going to be required—we have not done it yet, but under the law, because of the 1872 law that Ulysses Grant signed when he was President, we are going to be required to give the Stillwater Mining Co. 44 billion dollars' worth of platinum and palladium. Mr. President, this is their figure, not mine. You want to go and find out where I got that figure? Look at their prospectus. And the taxpayers of this country in exchange for their $44 billion are going to get the whopping sum of $10,000.

We are trying to balance the budget. It makes a mockery of it. It makes an absolute mockery of it. You talk about corporate welfare. That is the reason I applaud the Kennecott Co. At least in the land exchange, the grant we are going to give Kennecott in the Murkowski bill, they had the decency to say, ''We will give you a 3-percent net smelter return for all the copper we mine.'' That is still less than private property owners charge, but it is at least reasonable. If the taxpayers of this country were getting a severance tax or a net smelter return royalty over the next 7-year period when we are trying to balance the budget, it is a big piece of money.

When we look at some of the things we are doing to the environment, even after the add-back in the amendment we are going to vote on here in about 2 hours, even after we add that back into the environmental fund, EPA is still going to be cut significantly. Mr. President. When I came to the Senate, 65 percent of the streams and lakes of this country were not swimmable and not fishable. Today, in 1996, that figure has been reversed; 65 percent of the streams and lakes are fishable, are swimmable. And I do not care where you go. If you go to Main Street America—you pick the town—and you ask people: Do you think we are doing enough for the environment? Seventy percent of the people say, no. Do you want to reverse that figure to 35 percent of the streams and lakes not being fishable and swimmable from the point that 65 percent of them are? No. Nobody wants to turn the clock back on the environment.

The air we breathe, the water we drink goes to the very heart of our existence, and we are cutting the Environmental Protection Agency's budget. Too much regulation, they say. That may be true. Cut the regulations back, but do not cut back the quality of water and air.

Here is an opportunity to find an awful lot of money that we have been giving away since 1872, originally to encourage people to move west. You think about the rationale for the 1872 law—to encourage people to move west—124 years ago. What is the rationale now? Corporate greed. Political campaign contributions. That is it, pure and simple. People will not vote to impose a royalty on mining companies because they give away a lot of money around here. Until we straighten that out, this is not going to be straightened out.

Mr. President, I have made the same speech on this floor many times. The figures keep changing. The companies that are benefiting from it keep changing. I do not know how much longer I am going to be in the Senate, but I promise you one thing: The last day I serve here I will be standing right here, unless this is rectified, making the same speech.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2:15 p.m..

Thereupon, the Senate, at 12:48 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FRIST).

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3533

Mr. KERRY. Mr. President, I will vote to support the Bond amendment to the underlying Lautenberg-Kerry amendment only because it provides some additional funding for environmental programs that are critical to improving the health and safety of all Americans and because it is the most that Democratic negotiators could wrest from the Republicans for these purposes. Regrettably, this Bond-Mikulski compromise eliminates any opportunity to pass the Lautenberg-Kerry amendment which contains almost double the funding for environmental protection, including water infrastructure funding for the State revolving loan fund and additional funds to cleanup of Boston Harbor.

However, I hope that the overwhelming support for the Bond-Mikulski compromise amendment will demonstrate to the House conferees that the vast majority of Senators want to support increased funding for critical

environmental protection. I plan to work with the White House and the Senate and House conferees in the hope that we can provide even more support for the environment.

Let me first put in perspective the situation before us on funding for environmental programs. I was pleased to join Senator LAUTENBERG in offering the underlying amendment to the Hatfield substitute to H.R. 3019. Our amendment would add back nearly $900 million for environmental programs at four Federal agencies: the Environmental Protection Agency and the Departments of Energy, Agriculture, and Interior. The EPA would receive over $700 million—for clean water, Superfund and EPA enforcement and operations, environmental technology and climate change programs—with the remainder going to important conservation programs at the other agencies. This funding is critically needed to continue to protect the public's health and safety at a level that Americans have come to expect from their Government.

The conference report on the 1996 VA/HUD/independent agencies appropriations bill, from which the Environmental Protection Agency obtains its funding, was vetoed last December by President Clinton in part because it provided $1.6 billion less for environmental protection than the President's budget request of $7.4 billion—a 23-percent cut. The President, in budget negotiations with the Republicans, then proposed to compromise by restoring approximately $1 billion to the EPA budget. The Republicans rejected that proposal.

The amendment I offered with Senator LAUTENBERG and a number of other Senators would restore just over $700 million for the EPA including $365 million for the two State revolving loan funds for water infrastructure projects and an additional $75 million to share the costs facing the residents of the Boston area for a multi billion-dollar water and sewer treatment facility. This further compromise was also rejected by the Republicans.

Following that rejection, Senators MIKULSKI and LAUTENBERG negotiated with Republicans the deal reflected in the amendment before us today—the Bond-Mikulski amendment. While it provides far less environmental protection than the Lautenberg-Kerry amendment, it does restore critically needed resources to the EPA that neither the House bill nor the underlying Senate committee bill includes.

The Bond amendment restores $300 million for the State revolving funds for water projects and additional funding for Superfund and EPA operations. That is important and beneficial. However, I cannot fail to describe why I wish the Bond amendment went further.

While the Bond amendment restores funding for some activities at the Environmental Protection Agency, it eliminates critical funding for services and functions vital to protecting the environment in my State of Massachusetts and the rest of the Nation.

Relevant to the Democrat proposal, the Bond amendment reduces the additional funding for the EPA contained in the underlying amendment by almost half. It reduces funding for water infrastructure projects under the State revolving loan fund by $75 million and eliminates the additional $75 million for cleaning up Boston Harbor—high priorities for both me and for the President and other Members of the House and Senate.

In addition, the Bond-Mikulski amendment cuts $100 million from other crucial environmental protection activities within EPA such as the Environmental Technology Initiative, the climate change program and the operations and enforcement budgets—the environmental cops on the street.

Finally, the BOND amendment eliminates $170 million included in our amendment for other environmental enhancement and protection efforts, including funding for the Department of Energy's conservation and weatherization activities which would have insulated 12,000 homes, $72 million to help keep our national parks open and $20 million for conservation and research projects at the U.S. Department of Agriculture.

The Environmental Protection Agency and environmental protection activities it and other agencies operate have been subjected to far more than their fair share of cuts in the past year. For example, in the fiscal year 1995 rescission bill, the EPA budget was cut by $600 million to pay for disaster assistance. Now, for fiscal year 1996, we are asking the EPA to take another huge reduction in its budget. It is clear the Republicans are not imposing cuts on environmental protection activities just to reach a balanced budget. Their objective is far more sinister—to cripple environmental protection efforts because their friends who own or manage polluting industries don't want to go to the trouble or expense.

If we want a healthier environment for all Americans, we must provide adequate resources to accomplish this to those arms of our Government charged with that responsibility. What has happened to these activities during the past year is a tragedy. In the case of the EPA, first, there was a Government shutdown, then proposals for significant layoffs of thousands of employees, followed by another 3-week-long shutdown, followed by another short-term funding measure which only served to prolong the anxiety and uncertainty among EPA employees. EPA is facing a crisis where its best and brightest minds are seeking more secure employment outside public service. This directly affects the quality and effectiveness of our Government's efforts to ensure a clean, healthy environment to all our citizens. The only way to resolve this crisis is for Congress to make environmental protection a priority, not a punching bag.

This Congress is seeking to place more burdens on the EPA through new regulatory reform measures and new assistance for small businesses. I support a number of these measures. But if they are to be implemented properly, or at all, we must provide the requisite resources.

If we want clean water and air, if we want to clean up toxic waste dumps, if we want a healthy environment, we in the Congress have to support those activities.

The Bond amendment is the very least we should do. But it is more than anything for which we have been able to secure Republican support up to this point. So I support the Bond amendment and I still firmly support the goals of the Lautenberg-Kerry amendment to restore environmental protection and I will work to achieve the higher funding levels in the conference committee.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3533.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 19, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—81

Abraham	Dorgan	Lieberman
Akaka	Exon	Lugar
Baucus	Feingold	Mack
Bennett	Feinstein	McConnell
Biden	Ford	Mikulski
Bingaman	Frist	Moseley-Braun
Bond	Glenn	Moynihan
Boxer	Gorton	Murray
Bradley	Graham	Nunn
Breaux	Grassley	Pell
Bryan	Harkin	Pressler
Bumpers	Hatch	Pryor
Burns	Hatfield	Reid
Byrd	Heflin	Robb
Campbell	Hollings	Rockefeller
Chafee	Inouye	Roth
Cochran	Jeffords	Sarbanes
Cohen	Johnston	Shelby
Conrad	Kassebaum	Simon
Coverdell	Kempthorne	Simpson
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thompson
Dodd	Lautenberg	Warner
Dole	Leahy	Wellstone
Domenici	Levin	Wyden

NAYS—19

Ashcroft	Helms	Nickles
Brown	Hutchison	Santorum
Coats	Inhofe	Smith
Faircloth	Kyl	Thomas
Gramm	Lott	Thurmond
Grams	McCain	
Gregg	Murkowski	

So the amendment (No. 3533) was agreed to.

Mr. BOND. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, there will be a number of votes. I ask unanimous

consent that following the next vote—we have already had one vote—that all other votes in the sequence be limited to 10 minutes each.

Mr. BYRD. Mr. President, reserving the right to object, may I ask the distinguished majority leader, are we going to have a minute or so between each vote so an explanation can be made for the RECORD, at least, of what we are about to vote on?

Mr. DOLE. I would be pleased to accede to that request for a minute on each side to explain the vote.

Mr. BYRD. I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 3482

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3482, as amended.

The amendment (No. 3482) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3508

The PRESIDING OFFICER. There will now be 2 minutes, equally divided, on the Boxer amendment No. 3508.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I appreciate the suggestion of the Senator from West Virginia for 1 minute to explain both the pro and con of these amendments. I think when we run a whole bunch together, that is necessary.

I argued this morning in opposition to the Boxer amendment because it allows, essentially, unrestricted funding of abortion on demand in the District of Columbia. The amendment, I believe, violates the conference agreement and restricts the use of funds for abortion to protect the life of the mother and in cases of rape and incest. It also violates article I, section 8 of the Constitution, which gives the exclusive right of legislation for the District to the Congress. It is not possible to separate the funds appropriated by the Federal Government from the funds raised by the District of Columbia. I do not believe it should be the policy of this body to allow for, essentially, an unrestricted right to abortion in the District of Columbia.

I urge a ''no'' vote on the Boxer amendment.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mrs. BOXER. Mr. President, I think it is important that we look at the current situation regarding the Federal Government telling localities what they can do. There are thousands of counties in this country, and there are thousands of cities, and not one of them is told by the Federal Government how to spend their own local funds.

If you support the Boxer amendment, you merely say that Washington, DC, will be treated the same way as every other entity in this Nation. It would still not allow Federal funds to be used, but it would permit Washington, DC, to make that decision on how to spend their own locally raised funds.

Thank you very much.

VOTE ON AMENDMENT NO. 3508

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3508.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—45

Akaka	Feinstein	Moseley-Braun
Baucus	Glenn	Moynihan
Biden	Graham	Murray
Bingaman	Harkin	Nunn
Boxer	Hollings	Pell
Bradley	Inouye	Pryor
Bryan	Kennedy	Robb
Bumpers	Kerrey	Rockefeller
Byrd	Kerry	Roth
Campbell	Kohl	Sarbanes
Chafee	Lautenberg	Simon
Cohen	Leahy	Snowe
Daschle	Levin	Specter
Dodd	Lieberman	Wellstone
Feingold	Mikulski	Wyden

NAYS—55

Abraham	Ford	Lugar
Ashcroft	Frist	Mack
Bennett	Gorton	McCain
Bond	Gramm	McConnell
Breaux	Grams	Murkowski
Brown	Grassley	Nickles
Burns	Gregg	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Santorum
Conrad	Heflin	Shelby
Coverdell	Helms	Simpson
Craig	Hutchison	Smith
D'Amato	Inhofe	Stevens
DeWine	Jeffords	Thomas
Dole	Johnston	Thompson
Domenici	Kassebaum	Thurmond
Dorgan	Kempthorne	Warner
Exon	Kyl	
Faircloth	Lott	

So the amendment (No. 3508) was rejected.

Mr. SANTORUM. Mr. President, I move to reconsider the vote and lay it on the table.

The motion to lay on the table was agreed to.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak for 1 minute for the purpose of withdrawing some amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3514, 3515, 3516, 3517, 3523, 3531, 3484, AND 3488 WITHDRAWN

Mr. SANTORUM. I ask unanimous consent that the following amendments be withdrawn: No. 3514, 3515, 3516, 3517, 3523, and 3531.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I also ask unanimous consent that my amendments Nos. 3484 and 3488 be withdrawn. The subject of my amendments has been taken care of within the managers' amendment. I want to thank the Senator from Oregon [Mr. HATFIELD] for his cooperation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FORD. Mr. President, may we have order, please. They are withdrawing amendments. We would like to hear which ones are withdrawn.

The PRESIDING OFFICER. The Senate will be in order.

The Chair has recognized the Senator from Illinois.

Mr. SIMON. Mr. President, I believe my amendment is next. If we can have it worked out with the managers, it will not be necessary for a rollcall. And I would offer a revised amendment.

The PRESIDING OFFICER. The Chair advises the Senator from Illinois that the amendment of the Senator from Washington is the next order of business.

AMENDMENT NO. 3496

Mrs. MURRAY. Mr. President, I rise as a cosponsor of this amendment. Very simply, this amendment will change the name of the Walla Walla Veterans Medical Center in Walla Walla, WA to the Jonathan M. Wainwright Memorial VA Medical Center.

General Wainwright was born at Fort Walla Walla and was a member of the 1st cavalry after graduating from West Point. He served in France during World War I and was awarded the Congressional Medal of Honor in 1945 by President Truman for his service in World War II. He spent nearly 4 years in a prisoner of war camp in the Philippines and was known as the hero of Bataan and Corregidor. General Wainwright was a true war hero and won the praise and respect of all Americans.

Mr. President, the people of Walla Walla, WA want this name change to honor a war veteran and local hero. In May, they are dedicating a statue in his honor and would like to dedicate the name change of the hospital at the same time. The entire Washington State congressional delegation supports this change. And all of the veterans service organizations in Washington State support the change.

I urge my colleagues to support changing the name of the Walla Walla Veterans Medical Center to the Jonathan M. Wainwright Memorial VA Medical Center, and to allow this war hero the recognition he so rightly deserves.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 3496 WITHDRAWN

Mr. GORTON. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the Gorton Amendment No. 3496.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be withdrawn. It also will be included in the managers' amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. Is the majority leader seeking recognition?

Mr. DOLE. Mr. President, as I understand the Senator from Illinois, his amendment has been cleared on both sides.

Mr. SIMON. My amendment has been agreed to by the managers on both sides.

Mr. DOLE. I was just informed maybe it had not been cleared on this side.

Mr. SIMON. I ask unanimous consent, Mr. President, that it be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under a prior unanimous-consent agreement, the Senator from Indiana is recognized for 1 minute.

AMENDMENT NO. 3513, AS MODIFIED

Mr. COATS. Mr. President, the amendment on which we are about to vote prevents the Government from discriminating against hospitals and ob-gyn residents who choose not to perform abortions. It protects those civil rights, but it also allows those who voluntarily choose to perform abortions to receive training in that procedure. The amendment is supported by Senator FRIST. The amendment is supported by Senator SNOWE. It is supported by the American Medical Association, the Accreditation Council for Graduate Medical Education, the American College of Obstetricians and Gynecologists. It goes to the rights of institutions and individuals to say that they do not believe it is in their best interests to receive mandatory training for abortion procedures. It is a civil rights issue. I hope our Members would vote for it.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mrs. BOXER. Thank you very much, Mr. President.

I hope my colleagues understand that under current law any medical school that has any conscience objection in teaching abortion does not have to teach abortion and they still get their Federal funds. What the Coats amendment would do is say that even if an institution has no conscience objection, it can stop teaching surgical abortion and continue to receive Federal funds.

The reason why many of us on this side particularly oppose this is that we think it is dangerous for women. We think that doctors will no longer know how to perform surgical abortions. We think it is very dangerous that a woman is put in a situation where a physician does not know how to perform a surgical abortion, say, if she is brought in in an emergency situation. That is why the American Association of University Women opposes this amendment, the National Women's Law Center, the Women's Legal Defense Fund, and the Center for Reproductive Law and Policy, among others.

I hope you will vote no. Current law has a conscience clause. We all support that. I hope we can defeat the amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 3513, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—63

Abraham	Faircloth	Lott
Ashcroft	Ford	Lugar
Bennett	Frist	Mack
Biden	Gorton	McCain
Bond	Graham	McConnell
Breaux	Gramm	Moynihan
Brown	Grams	Murkowski
Bryan	Grassley	Nickles
Burns	Gregg	Nunn
Campbell	Hatch	Pressler
Coats	Hatfield	Roth
Cochran	Heflin	Santorum
Cohen	Helms	Shelby
Conrad	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Johnston	Stevens
DeWine	Kassebaum	Thomas
Dole	Kempthorne	Thompson
Domenici	Kyl	Thurmond
Dorgan	Leahy	Warner

NAYS—37

Akaka	Glenn	Murray
Baucus	Harkin	Pell
Bingaman	Hollings	Pryor
Boxer	Inouye	Reid
Bradley	Kennedy	Robb
Bumpers	Kerrey	Rockefeller
Byrd	Kerry	Sarbanes
Chafee	Kohl	Simon
Daschle	Lautenberg	Specter
Dodd	Levin	Wellstone
Exon	Lieberman	Wyden
Feingold	Mikulski	
Feinstein	Moseley-Braun	

So the amendment (No. 3513), as modified, was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will come to order.

AMENDMENT NO. 3511, AS MODIFIED

Mr. SIMON. Mr. President, this is the amendment we temporarily set aside. I have modified it in line with the request of the managers. It is now acceptable on both sides, and I offer the amendment.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 3511, as modified, to amendment No. 3466.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 582, line 14, strike ''$1,257,134,000'' and insert ''$1,257,888,000''.

On page 582, line 16, before the semicolon insert the following: '', and of which $5,100,000 shall be available to carry out title VI of the National Literacy Act of 1991''.

On page 582, line 16, strike ''$1,254,215,000'' and insert ''$1,254,969,000''.

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a) Section 428(n) of the Higher Education Act of 1965 (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

''(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.''.

(b) The amendment made by subsection (a) shall take effect on July 1, 1996.

On page 592, line 7, strike ''$196,270,000'' and insert ''$201,294,000''.

On page 592, line 7, before the period insert the following: '', of which $5,024,000 shall be available to carry out section 109 of the Domestic Volunteer Service Act of 1973''.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment No. 3511, as modified.

The amendment (No. 3511), as modified, was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3519

Mr. GRAMM. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. Mr. President, this bill started with a $4.8 billion contingency fund which represented our effort to buy the President into a budget agreement where, if he would agree to a budget—any budget, not just a balanced budget—we would give him $4.8 billion.

But it seems since we started, we were overly eager to give the money away. We have already given the President about $3.3 billion by adding it right to spending, without even requiring a budget agreement. What I am saying here is, let us take this contingency appropriation out. If we have an agreement with the President, let us negotiate at that time. Let us not negotiate in advance. I thought we were

trying to cut spending, not increase it. I do not understand how we balance the budget by giving the President $4.8 billion of additional spending. So I ask my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. May we have order?

The PRESIDING OFFICER. The Senate will be in order. We can move this process along a little faster if Senators will take their conversations to the Cloakroom.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, let me clarify the Gramm amendment, which is in the context of what the leadership has been doing in trying to negotiate with the White House. In fact, the leadership supports my effort to try to table or to kill or vote no on the Gramm amendment, and that is simply this.

The negotiators on our side said to the President there would be $10 billion that we would consider adding in nondefense discretionary spending if you agree to balance the budget through this process by the year 2002. That was our leaders, the Speaker of the House and Mr. DOLE, the majority leader of the Senate.

So, consequently, the administration came up with a request for this particular fiscal year for $8 billion of additional spending under the proposed agreement contingent upon getting that agreement.

We in the Appropriations Committee went over those requests. We cut it to $4 billion and we said, ''But that $4 billion is contingent upon the leadership, who have been negotiating that long-term agreement finding an agreement.''

So what we are trying to do is to help the leadership by providing the incentive, by providing the continuing leverage, and that is simply it. There is not a dollar of this that can be spent until the leadership has reached an agreement with the White House, and that is to assist the leadership to pursue this expeditiously.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3519. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 67, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—33

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Brown	Grassley	McConnell
Burns	Gregg	Murkowski
Coats	Helms	Nickles
Coverdell	Hutchison	Pressler
Craig	Inhofe	Roth
DeWine	Kempthorne	
Faircloth	Kyl	
Frist	Lott	
Santorum	Thomas	Thurmond
Smith	Thompson	Warner

NAYS—67

Akaka	Exon	Lieberman
Baucus	Feingold	Lugar
Bennett	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Bond	Gorton	Murray
Boxer	Graham	Nunn
Bradley	Harkin	Pell
Breaux	Hatch	Pryor
Bryan	Hatfield	Reid
Bumpers	Heflin	Robb
Byrd	Hollings	Rockefeller
Campbell	Inouye	Sarbanes
Chafee	Jeffords	Shelby
Cochran	Johnston	Simon
Cohen	Kassebaum	Simpson
Conrad	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
Dodd	Kohl	Wellstone
Dole	Lautenberg	Wyden
Domenici	Leahy	
Dorgan	Levin	

So the amendment (No. 3519) was rejected.

AMENDMENT NO. 3520

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3520.

The yeas and nays have not been requested.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I proposed this amendment with Senators SPECTER, SANTORUM, JEFFORDS, and HARKIN.

This amendment has two parts to it. It urges the Senate to maintain the Senate position going into the conference committee on the energy assistance program, which the House has attempted to eliminate. It urges the President to release emergency energy assistance money, which he already has under the LIHEAP program.

This is a sense-of-the-Senate amendment. It is extremely important, not just for cold-weather States, but also for some of the Southern States that have experienced cold weather this winter.

I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am pleased to join with my colleague, Senator SANTORUM, and the distinguished Senator from Minnesota, Senator WELLSTONE, in supporting this amendment. The Low-Income Home Energy Assistance Program, known as LIHEAP, is vital for the poor, especially for the elderly. In many cases, they have to choose between eating or heating.

This amendment will be of substantial assistance in conference as we attempt to provide advanced funding for LIHEAP for next year. It is critical because of the way the appropriations process has worked when we have had continuing resolutions. Under the continuing resolutions, if there is not advanced funding for the program, we will not have the funds available and the States and local governments will not be able to do their planning. So I think this is a very important amendment.

Mr. KERRY. Mr. President, my Republican colleagues will come to this floor and vote for millions of dollars in corporate welfare, and then vote against providing $168 to assist a 73-year-old widow in New Bedford to pay her heating bill.

They'll vote to fund the Defense Department at a level above what the Defense Department has requested, and they'll turn around and vote against 143,000 families in Massachusetts.

All this sense of the Senate does, Mr. President, is ask the President to release about $300 million in emergency assistance LIHEAP funding to people who need it. It's been a long, cold winter in New England and across this country—a record amount of snow has fallen in my State—and it has been very, very cold. Too many people just can't pay their heating bills. We simply should do the right thing and release this money.

This year, those in Massachusetts who need help paying their heating bills are going to receive about $20 million less than they did last year. The release of emergency funds still won't bring us close to what was received last year, but it will help hard-working families struggling to make ends meet, seniors who are having the safety net stripped from beneath them in this Congress, and the disabled who deserve our help.

Mr. President, if my Republican colleagues can vote in unison for millions of unnecessary dollars for defense, I would like to hope they could do as much to release a few extra dollars already appropriated to help people financially survive the winter.

Mr. JEFFORDS. Mr. President, I rise today to offer with my colleague from Minnesota, Senator WELLSTONE, an amendment on the Low Income Home Energy Assistance Program [LIHEAP]. The amendment is a sense-of-the-Senate resolution with two parts.

The first calls upon the Senate to hold its position on advance appropriations for LIHEAP in fiscal year 1997 when we go to conference with the House. Advance appropriations allow States to plan properly for next winter and enable their programs to be fully operational by the time the cold weather begins.

The second part calls upon the President to use the LIHEAP emergency funds to meet the energy needs of America's low income citizens. If this bill passes, there will be no additional LIHEAP funds available for the rest of this year. Under existing law, the President has the authority to use emergency funds to help low income families pay their energy bills. He should do so.

I am very pleased that the chairman of the subcommittee was able to include $1 billion in advance appropriations for LIHEAP in this bill. The House bill does not include these funds and we must fight to keep them.

The recent temporary funding bills severely limited the rate at which States could draw down their LIHEAP allocations and caused serious disruptions in States' ability to provide assistance to low income families. If LIHEAP funds had not been appropriated in advance in the fiscal year 1995 Labor-HHS appropriations bill, the President would not have been able to release $578 million in energy assistance in December.

These funds enabled millions of low income households to keep their homes warm during the coldest winter months. Both the Senate fiscal year 1996 Labor-HHS appropriations bill and the administration's budget request for fiscal year 1996 included advance appropriations in fiscal year 1997 for LIHEAP.

Last week I joined with 16 of my colleagues in writing to Chairman HATFIELD asking that he include advance appropriations. I ask that a copy of this letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NORTHEAST MIDWEST
SENATE COALITION,
Washington, DC, March 6, 1996.

Hon. MARK HATFIELD,
Senate Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: Before March 15th, the Senate may consider an appropriations bill to provide funds needed through the remainder of FY1996. We are writing to urge you to include at least $1 billion in advance appropriations for the Low Income Home Energy Assistance Program (LIHEAP) for FY1997 in this bill. Advance appropriations allow states to plan properly for next winter and enable their programs to be fully operational by the time the cold weather begins.

The recent temporary funding bills severely limited the rate at which states could draw down their LIHEAP allocations and caused serious disruptions in states' ability to provide assistance to low income families. If LIHEAP funds had not been appropriated in advance in the FY1995 Labor/HHS Appropriations bill, the President would not have been able to release $578 million in energy assistance in December. These funds enabled millions of low income households to keep their homes warm during the coldest winter months. As you know, both the Senate FY1996 Labor/HHS Appropriations bill and the Administration's budget request for FY1996 included advance appropriations in FY1997 for LIHEAP.

We must ensure that state LIHEAP programs can operate effectively next winter. Advance appropriations are essential. We urge you to include at least $1 billion in advance appropriations funding for LIHEAP for FY1997. Thank you.

Sincerely,

James M. Jeffords, Co-Chairman. Daniel Patrick Moynihan, Co-Chairman. Herb Kohl, John Glenn, Olympia Snowe, John F. Kerry, Paul Wellstone, Chuck Grassley,——— ———, Carol Moseley-Braun, Bill Cohen, John H. Chaffee, Chris Dodd, Patrick Leahy, ——— ———, Rick Santorum, Bob Smith.

Mr. JEFFORDS. Mr. President, we must ensure that State LIHEAP programs can operate effectively next winter. Advance appropriations are essential in this regard.

The other part of this resolution deals with funding for the rest of this fiscal year.

With passage of this bill, LIHEAP funding for this year will only be $900 million—a 40-percent cut from last year. Let me say at this point that getting to the $900 million level has been quite a struggle.

There has been an effort by some Members of the other body to abolish the program. I have worked very hard to combat these efforts as have the Senator from Minnesota and the chairman and ranking member of the Labor/HHS subcommittee—the Senator from Pennsylvania and the Senator from Iowa.

While $900 million is not sufficient to meet the energy needs of America's low income families, these funds have made it possible for States to provide energy assistance to many low income residents.

The problem is that the money is all spent. Using the authority granted under the advance appropriations and the continuing resolutions we had previously passed, the President has already released $900 million so far this year, the amount this bill includes for LIHEAP. Almost all of these funds have gone out to the States and they have obligated the funds. There isn't any money left.

There is currently available to the President up to $300 million in emergency LIHEAP funding. A portion of these funds could be made available to those areas with the greatest need in order to meet the urgent home heating needs of families eligible for LIHEAP. No emergency funds have been used so far this fiscal year.

Mr. President, spring may officially start later this week, but for many parts of the country winter is not over. Last week we had lows in the twenties in Burlington, VT.

Checking today's USA Today we see that people can expect lows of 28 degrees in Grand Rapids, MI; 18 degrees in Eau Clair, WI; 13 degrees in Duluth, MN; and 15 degrees in Rapid City, SD. I might also remind my colleagues that 3 years ago, the so-called Storm of the Century occurred, not in January, not in February, but in March. We are not out of the woods yet.

How are low income families going to heat their homes? How are they going to pay their energy bills? How are they going to avoid having their heat shut off? Mr. President, there are no more LIHEAP funds available. Using the emergency funds is the only way to meet this need.

And what about this summer? Traditionally, 10 percent of LIHEAP funds are used for cooling assistance during the warm weather months, but this year there is no money left. How are States going to help low income senior citizens and persons with disabilities keeps their homes cool this summer?

This is not a trivial matter. High temperatures pose a serious health threat. Look at what happened last summer in Chicago. Hundreds of people died as a result of the extreme heat. There aren't any LIHEAP funds left, we are going to need emergency funds to meet this need.

Mr. President, because of reductions in LIHEAP funding, most States have had to reduce benefit levels and restrict eligibility. There has been a 24-percent reduction in the number of households served by LIHEAP. In seven States that figure is 40 percent.

I guess you can say Vermont has done well in this regard. Only 14 percent of the 25,000 households that received aid last year have not gotten heating assistance this year, but the benefit level has been reduced by almost half.

I call to my colleagues' attention an article that appeared in yesterday's Providence Journal. It says that local agencies that provide heating assistance expect the need for heating assistance to continue well beyond April 1 but they do not have the money to meet the need.

Mr. President, our amendment is simply a sense-of-the-Senate resolution calling upon the President to use the authority he already has to meet the energy needs of America's low income families. LIHEAP funds have been cut 40 percent from last year and there is no money left. We need to use the emergency funds.

Mr. President, I urge my colleagues to support this amendment. This winter is not over and we have to start thinking about next winter.

Mr. KOHL. Mr. President, I rise as a cosponsor of the sense-of-the-senate resolution on the Low Income Home Energy Assistance Program [LIHEAP].

This resolution calls on the President to release additional LIHEAP funds this year, and recognizes that forward funding for next year is critical to the LIHEAP program.

Mr. President, according to the calender, Spring has almost arrived, but freezing weather is still expected for the Upper Midwest. There is still a very real need for LIHEAP assistance.

Mr. President, we came perilously close to disaster earlier this winter because of cuts to LIHEAP and the failure of the Congress to finalize spending for the year.

Thankfully, President Clinton was able to release emergency funding when extended and severe cold weather spells threatened to result in a crisis situation for thousands of people in my State of Wisconsin and throughout the Nation.

LIHEAP has traditionally received forward funding by the Appropriations Committee so that States will know what to expect and may plan for the next heating season.

Forward funding this year also served to prevent partisan budget

fighting from holding up emergency help. Even though many important programs were held hostage during the Government shut-downs, forward funding allowed the President to release critical heating assistance when it was needed the most.

Despite the President's action, the LIHEAP program was still hit with $400 million in cuts from previous levels, which represented a 25-percent loss this winter.

LIHEAP has continued to receive severe cuts even though home heating represents a disproportionate cost for low income households. Recent reductions in the program has led to steep shortfalls for States and prevented many families from qualifying for assistance.

In Wisconsin, over 126,000 families depend upon the Low Income Home Energy Assistance Program. This year, Wisconsin families have been forced to confront an annual reduction of $100 due to LIHEAP cuts.

Given the funding shortfall this winter and the real prospect that severe weather conditions will likely drag on over the next month, it is important that remaining Federal assistance be allocated to the States. This resolution would call on the President to use his authority to do just that.

Low income families and elderly people struggle year in and year out with bitter cold weather and ever rising heating costs. For these families, the LIHEAP program has provided life-saving help when heating bills or needed furnace repairs become impossible.

We must preserve LIHEAP and allow those who still need help this year to receive emergency assistance. We should also affirm the Senate position and make sure that LIHEAP is prepared to meet energy assistance needs in the future through forward funding.

I urge my colleagues to support this sense-of-the-Senate resolution.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to add Senators DODD, MOYNIHAN, KERRY, and MOSELEY-BRAUN as additional cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM], is recognized.

Mr. GRAMM. Mr. President, I do not see anybody rising in opposition. If there is time, and if nobody wishes to speak in opposition to this amendment, I would like to speak in opposition.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. GRAMM. Mr. President, I think we have reached the point of being ridiculous here. We have added $5.6 billion to Government spending right here in this bill. We are now so eager to spend money that we are no longer spending it this year, we are spending it next year. We cannot wait until next year to spend money on a program. We have to do it right now.

What happened to the mandate of the 1994 elections? I am opposed to this amendment. I intend to vote against it, even if I am the only Member of the Senate that does. I am glad we have the yeas and nays. I hope it will be defeated.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3520.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 23, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—77

Abraham	Exon	Lugar
Akaka	Feingold	Mikulski
Baucus	Feinstein	Moseley-Braun
Bennett	Ford	Moynihan
Biden	Frist	Murray
Bingaman	Glenn	Nunn
Bond	Graham	Pell
Boxer	Grassley	Pressler
Bradley	Gregg	Pryor
Breaux	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Hatfield	Rockefeller
Burns	Heflin	Roth
Byrd	Hollings	Santorum
Campbell	Hutchison	Sarbanes
Chafee	Inouye	Simon
Coats	Jeffords	Simpson
Cohen	Johnston	Smith
Conrad	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thurmond
Dodd	Lautenberg	Warner
Dole	Leahy	Wellstone
Domenici	Levin	Wyden
Dorgan	Lieberman	

NAYS—23

Ashcroft	Grams	McCain
Brown	Helms	McConnell
Cochran	Inhofe	Murkowski
Coverdell	Kassebaum	Nickles
Craig	Kempthorne	Shelby
Faircloth	Kyl	Thomas
Gorton	Lott	Thompson
Gramm	Mack	

So the amendment (No. 3520) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3524, AS MODIFIED

Mr. MURKOWSKI. I ask unanimous consent to send a modification of amendment No. 3524 to the desk.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, it is so ordered.

The amendment (No. 3524), as modified, is as follows:

On page , beginning with line , insert the following:

SEC. . SEAFOOD SAFETY.

(a) Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of the ''Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products'' (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995), shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) except that—

(b) The Department of Agriculture or other Federal agency may utilize lot inspection to establish a reasonable degree of certainly that fish or fish products purchased under a Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), meet Federal product specifications.

Mr. BUMPERS. The Senator from Alaska, [Mr. MURKOWSKI], has offered an amendment relating to the purchase of domestic fish or fish products by the Department of Agriculture and other Federal agencies. It is the understanding of the Senator that his amendment would impose no new requirement on the Federal Government to purchase these items?

Mr. MURKOWSKI. Yes, that is my understanding. Currently, Federal agencies are authorized to contract with suppliers of fish and fish products for various Federal feeding programs. Additionally, these products may be purchased by the Secretary of Agriculture under the commodity surplus reduction authorities of section 32 of the Agriculture Act of 1938. While these authorities for purchase will remain, my amendment will impose no requirement for purchase beyond the discretionary authorities of current law.

Mr. BUMPERS. Is it also the understanding of the Senator from Alaska that his amendment would not reduce the ability of Federal agencies to ensure the quality of fish and fish products purchased under these authorities?

Mr. MURKOWSKI. Yes, that is my understanding. All Federal agencies who enter into agreements for purchase of food commodities solicit bids which contain a number of contractual conditions relating to the quality of the items. Nothing in my amendment would restrict the criteria imposed by the Federal Government relating to the quality of the product. The only restriction imposed by my amendment would be to prohibit a contractual requirement that processing be subject to any federally mandated continuous inspection method beyond that imposed by the Food and Drug Administration.

Mr. BUMPERS. I understand current procedures for such purchases require an inspector of the National Marine Fisheries Service to be present at all times during processing. Would the Senator's amendment prohibit the presence of any Federal inspector during processing for these products in order to ensure contractual compliance related to quality standards?

Mr. MURKOWSKI. No. My amendment would only eliminate the requirement of their continuous present for

any inspection purpose other than food safety and wholesomeness. All Federal agencies involved in the purchase of fish and fish products would retain all current authorities to inspect and impose quality standards they feel proper to protect the Federal investment in, and ultimate consumers of, these products.

I thank my colleagues on both sides for agreeing to the amendment. I think no further debate is necessary. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3524), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3521 AND 3522 WITHDRAWN

The PRESIDING OFFICER. The question now occurs on the McCain amendment No. 3521.

Mr. MCCAIN. Mr. President, I ask unanimous consent to withdraw amendment No. 3521 and amendment No. 3522. They will be included in the managers' package.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 3525

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 3525.

The amendment (No. 3525) was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Could I inquire what the parliamentary situation is at this point?

The PRESIDING OFFICER. The question is now on agreeing to the Thurmond amendment No. 3526.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the Thurmond amendment so that we might consider some other amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question would now occur on the Burns amendment No. 3528.

Mr. LOTT. Mr. President, I would like to suggest the absence of a quorum at this point.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3528 WITHDRAWN

Mr. BURNS. Mr. President, I ask unanimous consent that the vote be vitiated on the Burns amendment to H.R. 3019, amendment No. 3528, and the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, let me, first of all, indicate to the Senate our progress. We have now completed all of our amendments, with the exception of a Thurmond amendment and then the matter relating to the pending appeal of the ruling of the Chair by Senator BURNS. Then I want to put in a quorum call for a few minutes for us to catch our breath and review things, because the only other item to be taken into consideration is the managers' package—the managers' package.

In this package are those accommodations we made to Senators who were not able to meet the deadline for filing amendments and for those which had been in the process of being cleared on either side with the authorizing committees.

Everyone's right is reserved in the managers' package, because anyone can move to strike or move to modify or second degree, whatever. So I want to make that process clear. We have copies now of the managers' package. I would like to make sure everyone has reviewed these, and I have made sure their own interests are protected.

So at this time, Mr. President, I would like to, with the two parties on the floor, dispose of the two remaining issues, the Burns appeal and the Thurmond amendment.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

APPEAL OF RULING OF THE CHAIR WITHDRAWN

Mr. BURNS. Mr. President, I ask unanimous consent to withdraw my appeal of the ruling of the Chair on my amendment No. 3551 yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 3526, AS MODIFIED

Mr. THURMOND. Mr. President, I ask unanimous consent that I be allowed to modify my amendment No. 3526. I send the modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 754, line 4, before the period at the end, insert the following: '': *Provided further,* That the authority under this section may not be used to enter into a multiyear procurement contract until the earlier of (1) May 24, 1996 or (2) the day after the date of enactment of an Act that contains a provision authorizing the Department of Defense to enter into a multiyear contract for the C–17 aircraft program.

Mr. THURMOND. Mr. President, I understand this amendment now has been agreed to by both sides. There is no objection. We tried to work everything out in a satisfactory manner. I urge the adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3526, as modified.

The amendment (No. 3526), as modified, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I inquire of the Chair if I am correct on indicating, as I did, that all the amendments that were part of the unanimous consent agreement have been acted upon and disposed of in some manner?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, as I say, I am going to take this time to recite those amendments that are in the managers' package. Then I will ask for a quorum call to give time for people to come to the floor or to indicate an interest in either one of these. They are open to second degree or for striking:

One amendment by Senators CHAFEE and KEMPTHORNE on ESA funding; an amendment by Senator BURNS on a hydroelectric facility in Montana; an amendment by the Finance Committee on reimbursement of certain claims under the Medicaid Program; an amendment by Senator COHEN to repeal the requirement to discharge or retire members of the Armed Services who are HIV positive; an amendment by Senators DORGAN and CONRAD, additional funds for B–52's; an amendment by Senators BENNETT and HATCH, photographic technology; an amendment by Senators BREAUX and JOHNSTON on machine tools; an amendment by Senator BOND earmarking ER highway funds within those appropriated; an amendment by Senator DASCHLE which earmark CDBG funds within those appropriated; two amendments by Senator SANTORUM, two sense-of-the-Senate amendments regarding offsets for title II disaster assistance and language that makes adjustments to discretionary spending to offset disaster assistance; an amendment by Senator GORTON, a Walla Walla, WA, veterans medical center naming; an amendment by Senators DEWINE and MCCONNELL, provides $11.8 million for local governments for the development of criminal justice identification systems, offset from foreign operations Eximbank.

Let me say all of these amendments either have been offset or they do not

have a major impact on the overall bill that we are recommending from the committee. But these are all part of the managers' package. I did not want anyone to be blindsided or have any thought of any right being diminished by the action of the committee.

Excuse me, Mr. President, there is a second page. Amendments, like mushrooms, tend to grow in the night:

An amendment by Senator MCCAIN on allocation of health care resources at VA; an amendment by Senator HATFIELD, Umpqua River basin from existing funds; an amendment by Senator MCCAIN on disaster funds allocated in accordance with established prioritization processes; a technical amendment making section changes; an amendment by Senator MURKOWSKI; Greens Creek, AK.

Mr. President, at the time when we move to act on these packaged amendments, I will also ask unanimous consent that the following statements and colloquies be placed in the RECORD: A statement by Senator HUTCHISON; a statement by Senator DEWINE; a colloquy by Senators STEVENS and CAMPBELL; a colloquy by Senators SPECTER and PELL; a colloquy by Senators SIMON and SPECTER; a colloquy by Senators HOLLINGS, MCCAIN, and SPECTER; a colloquy by Senators MCCONNELL and LEAHY; and a colloquy by Senators HARKIN, JOHNSTON, and SPECTER.

I would also ask further that a statement by Senator MCCAIN be printed in the RECORD at the appropriate place following the Burns amendment adopted herein. That is a lot.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Let me ask the distinguished Senator if there is not also a Dole amendment on the IRS commission, which he did not list.

Mr. HATFIELD. I am told there is. Typographical error.

Mr. BUMPERS. Would the Senator add that to the unanimous-consent request?

Mr. HATFIELD. I have not asked yet unanimous consent, but we do have that included. That is on the second page.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak as in morning business for just a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you, Mr. President.

NATIONAL DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, at the end of last week I came to the floor and talked about the Violence Against Women Act. I announced that we now set up an important hotline, and that every day on the floor of the Senate I wanted to just announce this number for families in our country. This is the National Domestic Violence Hotline, and the number is 1–800–799–SAFE. There is also a TTD number for the hearing-impaired, and that is 1–800–787–3224.

Mr. President, I talked about domestic violence last week. I will not take the time today. But I would like for the next couple of weeks to get about 30 seconds every day to announce this number.

Again, for those that are watching C-SPAN, the National Domestic Violence Hotline is 1–800–799–SAFE, and the TTD number for the hearing-impaired is 1–800–787–3224. If a woman feels she needs help because she is being beaten or her children are being beaten, she is being battered, this is the number to call. There are people who are skillful; there are people who understand this issue. Because of this hotline, there is help for women, there is help for children, there is help for families in this country.

Mr. President, I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3553 TO AMENDMENT NO. 3466

Mr. HATFIELD. Mr. President, I send to the desk the managers package, as I have outlined it and explained it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself and Mr. BYRD, proposes an amendment numbered 3553 to Amendment No. 3466.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HATFIELD. Mr. President, again, let me call to the Senate's attention—as I have done now in the Republican caucus at lunch, and others in the Democratic Caucus, I think, had similar material—that we have put together, with the clearance of Senator BYRD on the Democratic side of the aisle, a managers package to accommodate those Members who were not present when a unanimous-consent agreement was entered into at 7:45 last Thursday night. The deadline was 8:05. So there were those who were negotiating at that time with other colleagues.

I have recited those amendments and we have indicated very clearly that people's rights to either modify, to change, second degree, or strike were certainly open.

We have waited now close to half an hour for anyone to appear to take advantage of that opportunity.

I ask unanimous consent that the statements that the following statements and colloquies—I am just boxing those together—be placed in the RECORD. As I recited before, there is a statement by Senator HUTCHISON; a statement by Senator DEWINE; a colloquy by Senators HATFIELD and SPECTER; a colloquy by Senators STEVENS and CAMPBELL; a colloquy by Senators SPECTER and PELL; a colloquy by Senators SIMON and SPECTER; a colloquy by Senators HOLLINGS, MCCAIN, and SPECTER; a colloquy by Senators MCCONNELL and LEAHY; a colloquy by HARKIN, JOHNSTON, and SPECTER; a colloquy by Senators SIMON and SPECTER; a colloquy by Senators MCCAIN and BURNS, which I ask be placed in the RECORD in the appropriate place following the Burns amendment that we will have adopted in this package.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEMATECH

Mrs. HUTCHISON. Mr. President, the purpose of my amendment is to restore the funding level for Sematech to the full amount authorized in the 1996 Defense authorization bill.

Mr. President, semiconductor manufacturing leadership is as critical to America's national defense and economic security today as it was in 1987 when Sematech was formed. Sematech has proven to be a model for government-industry cooperation. Unlike so many other programs, Sematech has produced all that it has promised it would and then took the unprecedented step of deciding to decline all future direct Federal funding.

It is indeed ironic that as this program come to an end, our competitors in Japan recently announced they are establishing a consortium modeled after Sematech. They have publicly admitted that the success of Sematech has resulted in America reclaiming world market share leadership in both chips and the equipment used to manufacture them and the Japanese now feel the need for their own Sematech.

We must never surrender our leadership or our resolve to be the technology leader of the world. In this the final year of funding, I believe we have an obligation to provide adequate funding to ensure Sematech is able to complete its mission and finish research

project already underway that the industry and the Department of Defense are counting on.

CRIMINAL JUSTICE IDENTIFICATION SYSTEMS

Mr. DEWINE. Mr. President, my amendment provides $11.8 million for local governments for the development of criminal justice identification systems and their linking to FBI databases. Specifically, this amendment allows the FBI to grant funds to local communities, in consultation with the States, to upgrade their criminal identification systems. Through this funding, law enforcement agencies could develop their criminal histories, and DNA, fingerprint, and ballistics identification systems, and hook them up to the FBI national databases. It would also allow local law enforcement to contribute identification materials to the database in Washington. This proposal is strongly supported by the FBI and State and local law enforcement agencies and governments.

While the FBI's fingerprint and criminal histories systems are not yet complete, State and local governments need these funds now to take necessary steps to prepare their criminal records for connection to the national database.

This language was also passed by the Senate in June, 1995, as part of S. 735, the Senate's antiterrorism measure, and in October, 1995, as part of H.R. 2076, the Commerce, Justice, State and the Judiciary Appropriations.

I want to thank Senator MCCONNELL for his tremendous efforts in securing passage of this amendment. I also want to express my appreciation to Senator HATFIELD and Senator GREGG for accepting this amendment.

REGIONAL EDUCATIONAL LABORATORIES

Mr. HATFIELD. I am pleased to see that the Senate provided an increase of funding for education research in fiscal year 1996. There is not a more central and basic role for the Federal Government than to be funding research and development activities. Within that increase, have you provided for the regional educational laboratories?

Mr. SPECTER. We have provided $51 million for the regional educational laboratories in the education research item. We have 10 laboratories across the Nation. This funding will provide them each with a $1 million increase.

Mr. HATFIELD. Have you designated the purpose of these funds for the laboratories?

Mr. SPECTER. The laboratories, by law, are to have their research priorities and program of work determined totally by their regional educational governing boards. These boards are responsible to meet the education needs of their region. We are not giving a specific charge. We expect the laboratory boards to determine what is needed.

Mr. HATFIELD. Does this mean that the Department of Education can direct these funds in any way?

Mr. SPECTER. Senator HATFIELD, the answer is that these funds are intended for regional priorities only and only when the priority is determined by a laboratory's board, and is a priority within the general problem areas established in the law. None of these funds are to be used for any other purpose. This is what Congress intended when we reauthorized these laboratories. A key role of the Office of Educational Research and Improvement is to guarantee that this expectation is met, not only with the additional funds we provide this year, but for all the funds for the regional educational laboratories.

NATIONAL TEST FACILITY

Mr. CAMPBELL. Would the Senator from Alaska yield a few moments at this time to enter into a brief colloquy?

Mr. STEVENS. I would be happy to yield to the distinguished Senator from Colorado.

Mr. CAMPBELL. I thank the Senator. As the Senator may recall, the Senate report on the National Defense Authorization Act for Fiscal Year 1996 contained language concerning the $30,000,000 mandated cut from the Ballistic Missile Defense Organization [BMDO] program management and support program element. It is also my understanding that based on the additional management requirement, the Defense Appropriations Subcommittee directed that none of the program management and support account reduction be applied to the programs, activities, or functions of the Army Space and Strategic Defense Command. As a result of this report language, the National Test Facility [NTF] will take approximately a $4 million reduction in funding. As a result, there will be insufficient funds to do the much needed upgrade of the communications of the national test bed network. Also, a computer essential to the NTF's mission may not be able to support its operational requirements. I am advised that this facility is essential to the BMDO's mission, and therefore, cannot withstand any further reduction in funding.

I would like to ask the Honorable Chairman, Senator STEVENS, if he would work to include the National Test Facility as another program not be affected by the BMDO program management and support account reduction?

Mr. STEVENS. The Senator from Colorado raises important issues regarding the NTF and I can assure him I will work in the conference committee to address this issue. I also take this opportunity to thank the Senator from Colorado for his diligent efforts as the newest member of the Appropriations Committee.

INTERNATIONAL EDUCATION

Mr. SPECTER. Senator PELL, we are pleased to be able to provide support in the amount of $5 million in fiscal year 1996 for the International Education Program in title VI of the Goals 2000: Educate America Act. Since this sum is one-half of the originally authorized amount for this program we would appreciate any guidance that you, as the author of this legislation and the ranking minority member of both the Senate Foreign Relations Committee and the Education Subcommittee, might be able to provide on the use of these funds.

Mr. PELL. Thank you. First, I want to express to you my deep appreciation for the efforts you have made on behalf of this program, which provides critically important help in both civics and economic education to the emerging democracies in Eastern Europe and the former Soviet Union. Also I want to personally thank your staff member, Bettilou Taylor, for the amount of time and work she put forth in this area.

I very much appreciate the opportunity to provide guidance on how the funds for this program should be used. In a colloquy with then-Chairman Harkin in 1994, we agreed that the Department, given the limited funds, should award one grant in each area—one in civic education and one in economics education. I am pleased that the Department of Education complied with this request, and I believe it is a practice that should be continued.

Further, given the delay in reaching an agreement on a fiscal 1996 appropriations bill, I believe it advisable that the Department award continuation grants to the two organizations that received awards last year. These organizations, the National Council on Economic Education in New York and the Center for Civic Education in California, have had their grants for less than a year and should be given ample opportunity to implement fully the programs they have initiated over the past several months.

Mr. SPECTER. I thank the Senator for his kind words. Also, I believe he has offered good, solid advice, and would concur with him that the Department should award continuation grants for the two organizations in question.

FUNDING FOR LIBRARY LITERACY

Mr. SIMON. I am concerned that funds for library literacy have been eliminated in the committee report. This is a particularly important program that supports literacy projects in over 250 libraries across the country. I did note and do appreciate, however, that the committee increased funding for library services.

Mr. SPECTER. My colleague is correct. Libraries are important in promoting literacy and I want to make it clear that the committee intends that library literacy projects continue to receive support through the additional funds allocated for library services. I will work in Conference Committee with the House to ensure that the conference report reflects this intent.

Mr. SIMON. I thank my colleague. Though I obviously would feel more comfortable if funds were appropriated

specifically for this purpose, I appreciate my colleague's efforts to accommodate my concerns regarding this important program.

MEDICARE-MEDICAID DATABANK

Mr. HOLLINGS. Mr. President, I rise for the purpose of engaging in a short colloquy with the distinguished Senator from Pennsylvania and the Senator from Arizona regarding the Medicare-Medicaid databank.

Mr. SPECTER. I am familiar with the issue and would be glad to discuss it with my friends from South Carolina and Arizona.

Mr. HOLLINGS. Well, I do not believe that this is controversial because it has been addressed in the past by the committee and by the Senate. Last year, the committee report included report language prohibiting the use of funds for the Medicare-Medicaid databank. This year, the House fiscal year 1996 Labor, Health and Human Services, Education, and Related Agencies Appropriations report again makes it clear that the House committee does not intend for funds to be used for this function, which could generate both needless paperwork and fines for businesses across America. I just want to make the record clear that the Senate continues to agree.

Mr. MCCAIN. I share the concern of my friend from South Carolina and have supported this prohibition from the start. Implementing the databank clearly would burden business with costly reporting requirements. In fact, I have introduced a bill to eliminate this burdensome mandate and hope it could be passed by the end of the year.

Mr. SPECTER. I appreciate my colleagues raising this issue. I know that language similar to the fiscal year 1996 House report language was included in the Senate report last year, and certainly, the Senate committee continues to agree.

Mr. MCCAIN. I thank my friend from Pennsylvania for his clarification.

Mr. HOLLINGS. I thank my colleagues and yield the floor

FOREIGN OPERATIONS

Mr. LEAHY. Mr. President, the chairman of the Foreign Operations Subcommittee, Senator MCCONNELL, and I have agreed to an amendment he is offering to rescind $25 million in funds appropriated in Public Law 104–107, the fiscal year 1996 Foreign Operations bill, for the Export-Import Bank. Those funds would then be eligible for transfer to the Commerce, Justice, State Subcommittee for programs under the jurisdiction of the Attorney General.

Senator MCCONNELL and I have also agreed that if the $50 million emergency supplemental appropriation for anti-terrorism assistance for Israel that is contained in this omnibus appropriations bill is offset with Defense Department funds or military construction funds, the $25 million transfer to the Commerce, Justice, State Subcommittee may occur. However, if any of the Israel supplemental is offset with Foreign Operations funds, the transfer will not occur. This ensures that if the Israel supplemental is paid for with Foreign Operations funds, the Export-Import Bank money would remain in the Foreign Operations budget and would reduce the impact of that offset on Public Law 104–107.

Mr. MCCONNELL. Mr. President, the Senator from Vermont, Senator LEAHY, has accurately stated our understanding.

Mr. JOHNSTON. Mr. President, I would like to commend the distinguished chairman, Senator SPECTER, and the distinguished ranking member of the Labor, Health and Human Services Subcommittee on Appropriations, Senator HARKIN, for their guidance and cooperative efforts in bringing this continuing resolution to the floor. There were extreme differences of opinion on a variety of subjects within this legislation, and both the chairman and ranking member deserve a great deal of credit for their efforts.

Mr. President, I rise today to bring attention to a program that is providing an indispensable service to Americans living underserved rural areas. The committee has provided funding above request levels for the Office of Rural Health Policy, and I applaud this decision. Rural telemedicine is a novel initiative in that it provides people in rural communities across the country access to physicians and instant diagnosis. This is a particularly essential program given the declining numbers of doctors who practice general medicine in our Nation's small communities. Telemedicine research has been ongoing, with specific efforts to determine the best and most efficient methods of delivering these services to America's citizens.

One of the excellent telemedicine research projects which would have been funded in 1995 was from Louisiana State University Medical Center in New Orleans. LSU went through the competitive process and was highly regarded on the merits, and I'm proud of their accomplishments, and the work that they are doing in southeast Louisiana.

Mr. President, a number of telemedicine projects were approved last year, but did not receive funding as a result of rescissions. The LSU Telemedicine projects was just such a program. In order that LSU Medical Center might continue its outstanding work, I would ask the distinguished chairman and ranking member, and hope that they agree, that consideration would be given to those programs that, after the required peer review, should have received funding from the fiscal year 1995 appropriation, but were not based simply on timing.

Mr. SPECTER. I thank my distinguished colleague from Louisiana for his comments, and for bringing this component of telemedicine research to the subcommittee's attention. The subcommittee adjusted the funding levels for the Office of Rural Health Policy because it felt that programs, such as telemedicine, offer promise for improving services to rural communities in the future. There is a need to evaluate how telemedicine projects currently underway or under consideration fit into the overall scheme of health care delivery in the areas being served. Therefore, I think it would be consistent for the Health Resources and Services Administration to consider previously approved projects when it obligates Rural Health funding.

Mr. HARKIN. Mr. Chairman, I concur with your remarks. It would be appropriate to continue these efforts to secure effective telemedicine services for rural communities and to use existing, approved projects where possible.

HCFA RESEARCH AND DEMONSTRATIONS

Mr. SIMON. Mr. Chairman, I want to bring to the attention of the Senate and the committee language included in the Senate Appropriations Committee Report accompanying H.R. 2127, the 1996 Labor, Health and Human Service, Education Appropriations bill. It is my understanding that unless specifically contradicted, all items in that committee report are incorporated, by reference, in the committee report accompanying the continuing resolution now being considered by the Senate.

Mr. SPECTER. That is correct.

Mr. SIMON. Accordingly, language included in the Senate committee report under the Health Care Financing Administration Research, Demonstrations, and Evaluations account that encourages HCFA to give ''full and fair consideration'' to a proposal from Northwestern Memorial for a ''3-year project to develop a comprehensive health care information management system'' is incorporated by reference in the report accompanying the continuing resolution now under consideration.

Mr. SPECTER. That is further correct. This is a project that warrants full and fair consideration by HCFA, which should adhere to the intentions of the Senate with regard to this important piece of report language.

Mr. SIMON. At a time when the Congress is proposing—and HCFA will be responsible for administering—significant reductions in Medicare and Medicaid costs, this proposal is particularly timely. Specifically, with the advent of managed care, and the resulting shift of patient care from inpatient acute care to ambulatory and other primary care settings, an integrated health care delivery system is essential. At present, information management systems to measure cost outcomes—and achieve cost savings—beyond the acute care setting are not commercially available. The information management system recommended in this report language would serve as a prototype for other health care delivery systems, and offers the promise of cutting health care costs while maintaining quality health care.

Mr. SPECTER. I share your interest in ensuring that HCFA has the information necessary to reduce the costs of

health-related entitlements while maintaining quality care. I also agree that the information management system referenced in the committee report is precisely the kind of project that HCFA should be exploring to achieve these objectives.

Mr. SIMON. Thank you for your interest in this important project.

FLINT CREEK

Mr. MCCAIN. Mr. President, I would like to clarify for purposes of the RECORD the amendment that we have just adopted.

First, the amendment gives the Federal Energy Regulatory Commission [FERC] the discretion of whether to transfer the license for the Flint Creek project. Second, in determining whether to transfer the license the commission must determine whether the waiver of fees is warranted, necessary and in the public interest.

In making these determinations FERC will ensure that the current licensee receives no payment or consideration for the license transfer, that no entity other than a political subdivision of the State of Montana would accept the license if made available, and that a fee waiver is necessary in order to transfer the license.

Mr. President, the proponents of this amendment inform me that without a limited fee waiver, the Flint Creek project would be defunct, the dam removed and that, accordingly, the Federal Treasury would receive no fee revenues whatsoever, leaving both the people of the area and the Federal Treasury worse off.

I trust that FERC will carefully examine the situation and exercise its discretion to ensure fairness to the parties in Montana, the Federal Treasury and all similarly situated projects. I ask my friend from Montana, is that a correct reading of the amendment.

Mr. BURNS. My friend has described the amendment correctly.

CDBG FUNDS

Mr. BOND. Mr. President, I support the amendment offered by the Senators from South Dakota to earmark $13 million from the CDBG program to enable the city of Watertown to replace a failed sewage treatment plant without burdening that city with unfair additional debt and devastating economic consequences. This grant will be matched by the city.

The city of Watertown participated in an innovative wastewater treatment project which failed. When that city undertook this demonstration, it was with the encouragement of EPA, and with the understanding that if the plant were to fail, that Federal grant funds would be provided to enable the city to meet its secondary treatment responsibilities.

Unfortunately, the plant has failed, and the authorization to make such grants by EPA also has expired, since Congress has directed that henceforth such assistance only be available in the form of formula allocated capitalization of state revolving loan funds. It has been argued that we should override this statutory direction and make specific grants to certain communities. Throughout the consideration of this bill I have opposed such earmarks from the EPA state revolving loan account, and I remain opposed to the diversion of EPA funding for such site specific concerns.

Mr. President, despite my concern over such use of EPA revolving loan funds, I reluctantly have accepted the argument of the Senators from South Dakota that this city would be unfairly burdened with a massive additional cost of financing a replacement wastewater treatment plant, a cost that they were assured previously they would not have to pay. More importantly, this additional cost, necessitated by the failure of a technology recommended by the Federal Government, will have devastating economic consequences for this city.

As such, amelioration of these consequences is one which the HUD CDBG program was intended to address: that of creating or preserving employment in a community. While I also am generally opposed to such earmarks in the CDBG program, this is a program which has such purposes under its current authorization, and as such, is a more appropriate means of addressing the legitimate concerns of this community.

THE COMMITTEE FOR MINORITY VETERANS AND THE COMMITTEE ON WOMEN VETERANS

Mr. AKAKA. Mr. President, would the Senator from Missouri, the chairman of the VA, HUD, and Independent Agencies Subcommittee, yield for a question?

Mr. BOND. I would be happy to yield for a question from the junior Senator from Hawaii.

Mr. AKAKA. Is it the intention of the committee to include the Committee for Minority Veterans and the Committee on Women Veterans under the restrictions placed on the travel budget of the Secretary of Veterans Affairs?

Mr. BOND. No, it was not.

Mr. AKAKA. Will the Committee for Minority Veterans and the Committee on Women Veterans be able to meet their responsibilities, including travel obligations, under the restrictions placed on the Secretary's travel?

Mr. BOND. Yes, they will. I believe that the ranking member of the Subcommittee, the Senator from Maryland, also supports this view.

Ms. MIKULSKI. That is correct. As a strong proponent of the Committee on Women Veterans and the Committee for Minority Veterans, I fully support their efforts and will make every effort to see that their activities are not adversely affected.

Mr. AKAKA. I am most grateful for the Senator from Maryland's past assistance in providing support and funding for the two centers.

As created by Congress, the centers were established to address the special needs of women and minority veterans overlooked under the Department's previous structure. Both centers and their respective Advisory Committees have made great strides in identifying and assisting minority and women veterans.

The Committee for Minority Veterans is required to meet at least twice a year and submit a annual report no later than July 1. The Committee on Women Veterans is scheduled to meet four times during a fiscal year and is expected to submit its next annual report in January 1997. The projected costs for the two committee to hold meetings, conduct public hearings, visit VA field facilities, and outreach to minority and women veterans are estimated to be over $120,000 for the remainder of the fiscal year. I am pleased that the provision in this bill will not adversely affect the activities of the Center for Minority Veterans and the Center on Women Veterans.

Mr. President, I thank the Senator from Missouri and the Senator from Maryland for their assistance on this matter.

DEVILS LAKE BASIN

Mr. CONRAD. I notice that the chairman and ranking member of the Appropriations Subcommittee on VA-HUD and Independent Agencies are on the floor and Senator DORGAN and I would like to engage them in a short colloquy.

As you know, two amendments to the omnibus appropriations bill were adopted on the floor on Monday providing much needed hazard mitigation and disaster relief for the people of the Devils Lake Basin in North Dakota. As Senator DORGAN and I stated on the floor prior to adoption of those amendments, Devils Lake reached a 120-year high water level last year, and the resulting flooding caused more than $35 million in damages. Based on the most recent National Weather Service forecast on March 1, we anticipate record high lake levels again this year. The amendments which were adopted will go a long way toward preventing another disastrous flood from occurring. We would like to know if additional assistance might be available to North Dakota through the Community and Development Block Grant Program.

Mr. DORGAN. We note that an additional $100 million dollars is provided for the Community Development Block Grant Program in the disaster supplemental portion, title II, of the pending bill. The State of North Dakota, working with the affected counties of Benson and Ramsey and the Devils Lake Sioux Tribe, have identified many homes that will require relocation or acquisition to prevent them from being damaged by floods later this year. A substantial portion of the anticipated $50 million in flood damage could be prevented if homes in the flood plain are acquired or moved prior to the flood. Senator CONRAD and I would like to inquire if CDBG block grant funds have been used for acquisition and relocation in the past.

Mr. BOND. It is my understanding that CDBG funds have been used for acquisition and relocation in the past and would be an allowable use of these funds under HUD guidelines for the CDBG program.

Ms. MIKULSKI. I concur with the chairman of the subcommittee on the use of CDBG funds for acquisition and relocation assistance. If Federal dollars can be saved by taking action before flooding occurs, I think we should do so.

Mr. CONRAD. I thank the chairman and ranking member for their comments. We have one additional question for the chairman and ranking member.

Mr. DORGAN. North Dakota has received a Presidentially declared disaster declaration for each of the past 3 years. H.R. 3019 provides disaster assistance for the Pacific Northwest and other recent natural disasters. Could the chairman provide me with his view as to whether the Devils Lake Basin would have eligibility for additional CDBG assistance under the ''other recent disasters'' provision in title II of H.R. 3019?

Mr. BOND. I believe the State of North Dakota would be eligible to receive CDBG funding under title II of this bill, provided the administration concurs with the congressional designation of the appropriation as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, and submission of an official budget request to this end.

Ms. MIKULSKI. I believe the chairman's interpretation of the provisions in the bill is correct.

Mr. CONRAD. I thank the chairman and ranking member of the subcommittee for clarifying the intent of Congress regarding the utilization of CDBG funds for flood mitigation efforts. I also want to thank the chairman and ranking member of the full committee for their help throughout this process.

Mr. DORGAN. I want to concur with the remarks of Senator CONRAD. They and their staffs have provided us with invaluable help in our efforts to seek assistance to prevent flooding in the Devils Lake Basin in North Dakota.

B–52 SUPPLEMENTAL FUNDING AMENDMENT

Mr. CONRAD. Mr. President, my distinguished colleague from North Dakota and I offered an amendment reprogramming $44.9 million from Air Force research and development, R&D, accounts to operations and maintenance, O&M, earmarked for retention of our entire fleet of B–52H aircraft in active status or a fully maintained attrition reserve.

Retention of these aircraft makes good sense. The B–52 is currently our only dual-capable aircraft, capable of responding anywhere in the world with advanced conventional precision guided munitions or in support of our nuclear deterrent. The B–52 is our most proven bomber, and as a result of consistent upgrades which are continuing, the B–52 is a thoroughly modern aircraft. Gen. Michael Low, former Commander of the Air Combat Command, has stated that the B–52's airframe is good until 2035. The B–52 is also cost effective, making it a good buy as we work to balance the budget.

As my colleagues may be aware, the Air Force has announced its intention to send up to 28 of these aircraft to the boneyard at Davis-Monthan. This is clearly unwise. In the context of great uncertainty over Russian ratification of START II, loss of the capability to reconstitute the current force structure in a relatively short period of time would likely decrease Russia's incentive for ratification. I know that my colleagues shared this concern when they voted to pass the fiscal year 1996 Defense Authorization Act, which included a provision prohibiting the retirement of any B–52's or any strategic systems, with fiscal year 1996 funds.

Recent events in the Taiwan Strait and frequent threatening Iraqi military maneuvers near Kuwait since the gulf war highlight the wisdom of this provision. In an era when we face the possibility of sudden massive aggression that leaves us little time to deploy reinforcements, the B–52's global reach is a valuable capability we ought not sacrifice.

As many of my distinguished colleagues are aware, the Botton-Up Review [BUR] found that 100 deployable conventional bombers are needed to win one major regional conflict [MRC] before swinging to another MRC. Because of the slow pace of conventional upgrades to the B–1 fleet and the continuing production of the B–52, however, we could only deploy 92 global range bombers if we had to go to war today. Sending dual-capable B–52's to the boneyard when we are unable to meet our requirements for even one MRC is unwise, if not dangerous.

Retention of these proven, cost effective, and highly capable bombers is clearly in our interest, and I believe that this amendment is the right way to do it. In light of the great budgetary pressure faced by the Air Force in this time of fiscal austerity, I am pleased that a portion of the Defense Department's unexpected inflation dividend was available for reprogramming. No other valuable Air Force program will be negatively affected by this amendment.

I urge my colleagues to support this amendment, and call on the Department of Defense to respect Congress's prerogative to determine the structure of our Armed Forces. In particular, I urge the Defense Department to postpone inactivation of any part of our B–52 force until Congress has completed all action on this year's defense budget, including the reprogramming package currently under development by the administration and supplemental appropriations legislation for fiscal year 1996.

I thank my distinguished colleagues for their careful consideration of this amendment, and yield the floor.

Mr. DORGAN. Mr. President, I rise to explain the amendment that I have offered with Senator CONRAD to ensure full funding for the B–52 bomber fleet. Let me outline what my amendment would do and then let my colleagues know why the Senate should pass it.

We have 94 B–52 bombers in active service in the Air Force today. Our experience in the Vietnam war and the Persian Gulf war shows that the B–52 has long been our workhorse bomber. But despite what the B–52 continues to do for our national defense, the Air Force is considering drawing down the B–52 fleet.

I am trying to prevent this from happening, and to keep B–52's up and flying. My amendment would provide the Air Force with the funding to operate and maintain 94 B–52 aircraft either in active status or in attrition reserve. A plane in active status, of course, is part of a combat coded squadron. A plane in attrition reserve is not in a separate squadron but is cycled through active squadrons, and is maintained in flyable condition.

In order to pay for full maintenance of the B–52 fleet, my amendment would transfer $44.9 million in Air Force research and development funds to Air Force operations and maintenance. The $44.9 million has already been appropriated in the defense appropriations bill. The money is available for transfer because the Defense Department's new estimates of inflation led the Department to conclude that it can accomplish its Air Force research and development with less money. In fact, the Defense Department proposed that this $44.9 million be rescinded as part of its supplemental appropriations and rescissions request.

I have run my amendment by the Congressional Budget Office, and CBO tells me two things that should cause my colleagues to support my amendment. First, CBO believes that the $44.9 million funding transfer will enable the Air Force to carry out my amendment's purpose of maintaining 94 B–52's. So this amendment is fully funded. Second, CBO has scored this amendment as saving $4 million in fiscal year 1996 and as deficit neutral over the 5 years 1996 to 2000. CBO projects that this amendment would actually save money in this fiscal year and be deficit neutral over the next 5 years.

Having described my amendment, let me briefly tell my colleagues why I think it is important that we retain our full, 94-plane B–52 fleet.

START II TREATY

The most important reason to keep 94 B–52's flying is that Russia has not yet ratified the START II Treaty. START II is the arms control treaty that requires both us and the Russians to cut our nuclear stockpiles. It makes no sense to retire strategic weapons systems when START II has not yet gone into effect. Disarmament should

not be unilateral. Members of the Russian Duma will doubtless ask themselves why they should ratify START II if the United States is cutting its strategic bomber force anyway.

CONGRESSIONAL INTENT

Second, Congress has explicitly recognized the force of these START II considerations. We wrote a provision into law, section 1404 of the National Defense Authorization Act for Fiscal Year 1996, forbidding the retirement of any strategic weapon system this year. We did that because we knew that we should not cut our nuclear arsenal until Russia subjects itself to the limits in START II. That is why section 1404 explicitly prohibits retiring B–52 bombers or even preparing to retire them. My amendment simply backs up section 1404 with the funding the Air Force needs to maintain the full B–52 bomber fleet. I seek to enable the Air Force to carry out the intent of Congress.

CAPABILITIES OF B–52 FLEET

Third, I would remind my colleagues that B–52 bombers are long-range force projectors. With maximum fuel load, the B–52 can fly 10,000 miles without in-air refueling, which is over 33 percent further than the B–1 or B–2 bombers. With in-air refueling, the B–52 literally has a worldwide range. The B–52 has been modified to carry up to 12 air-launched cruise missiles externally and 8 internally. Alternatively, it can carry up to 50,000 pounds of attack missiles and gravity bombs. A bomber of such range and payload is vital in order to project air power to areas where the United States lacks prepositioned equipment or bases capable of handling heavy bombers.

To take an example, Mr. President, right now we face a crisis in Southeast Asia, in the Taiwan Strait. China is firing live ammunition and testing dummy missiles in a way that is calculated to disrupt Taiwan's economy and rattle Taiwan's electorate. We have one carrier task force in the area; we are moving a second carrier task force from the Persian Gulf to Southeast Asia in order to keep the peace. Well, the B–52 has already kept the peace in the Persian Gulf. And it can keep the peace in Southeast Asia in one hop if need be. It makes no sense to retire B–52's at a moment when our ability to project force into every corner of the world is key to the peace of Southeast Asia.

BOMBER STUDY ONGOING

Last, my colleagues will recall that in February President Clinton ordered the Defense Department to study the future of our long-range bomber fleet. The Deep Attack Weapons Mix Study, which is headed by Under Secretary of Defense for Acquisition and Technology Paul Kaminski and Vice Chairman of the Joint Chiefs of Staff Gen. Joseph Ralston, will examine both the munitions and the bombers used to strike deep into enemy territory. That study includes a close look at the strategic bomber force structure. It seems to me that any retirement of B–52 bombers would prejudge the results of the Deep Attack Weapons Mix Study. I think my colleagues will agree that we should ensure that the Air Force can await the results of the study before retiring any B–52 bombers.

In conclusion, Mr. President, I am asking the Senate to approve an amendment that is paid for, that fulfills congressional intent, that maintains America's strategic forces, and that keeps a capable bomber in the air. I hope my colleagues will support this amendment.

Thank you, Mr. President. I yield the floor.

AMERICORPS

Mr. LEAHY. Mr. President, I support the mission of AmeriCorps. I believe that engaging Americans of all ages to help communities solve their own problems is a worthy goal.

One of the greatest threats facing our cities and towns today is the loss of a sense of community responsibility. AmeriCorps invites Americans to put something back into their communities—to reestablish the local ties that have been so important to this country.

I am very concerned about the provision in this omnibus appropriations bill which terminates AmeriCorps grants through Federal agencies. Right now, about half of AmeriCorps participants in my home State run through the USDA AmeriCorps Program. This includes the Vermont Anti-Hunger Corps and a rural development team. These projects have involved nonprofit groups, and a unique partnership of Federal, State, and local organizations. All of which have contributed to their success.

I want to clarify with the Chairman that this language would not preclude these local programs currently funded through Federal agencies to continue through national direct grants or through State commissions.

Mr. BOND. Yes, the Senator is correct. If local programs currently being funded through Federal agencies are doing a good job, then I would encourage them to either work with national groups to apply for funding or work with the commission in the State in which they reside. These local programs have the experience and expertise to compete very well for AmeriCorps grants. I expect the Corporation for National and Community Service and the State commissions to take this experience into consideration when reviewing new grantees. The bottom line is that we do not want Federal agencies capitalizing on funds that should be going directly to nonprofit organizations.

Mr. LEAHY. I thank the Chairman Senator BOND. I ask Senator MIKULSKI if this is also her understanding?

Ms. MIKULSKI. I share the concern of the Senator, about the termination of the grants to Federal agencies. Unfortunately, we lost the public relations war in defining how these Federal agency grants really work. These programs are not bloated bureaucracies, but a way for small local programs to benefit from the technical expertise of Federal agencies in designing programs to meet their own local needs. I would urge any local program currently being funded through a Federal agency to apply through the national direct grants or through their own State commissions.

Mr. LEAHY. I thank Chairman BOND and Senator MIKULSKI. I plan to work closely with these Vermont programs so that they can continue to providing services through AmeriCorps. And I appreciate all of the work the Senators have done to come to a bipartisan agreement on funding for AmeriCorps. I look forward to continue working with them on this important issue.

VETERANS HEALTH CARE

Mr. MCCAIN. Mr. President, we need to take immediate steps to implement a plan to better allocate health care funding among the Department's health care facilities so that veterans, no matter where they live or what circumstances they face, have equal access to quality health care.

The amendment that I propose here today with my distinguished colleague, Senator BOB GRAHAM of Florida, will, I hope, finally direct the Department of Veterans Affairs to do the right thing. That is, to eliminate funding disparities among VA health care facilities across the country.

Mr. President, inequity in veterans' access to health care is an issue that I originally brought to Secretary Jesse Brown's attention in March 1994. The Department of Veterans Affairs is currently using an archaic and unresponsive formula to allocate health care resources. The system must be updated to account for population shifts.

The veterans population in three States, including Arizona, is growing, at the same time that it is declining in other parts of the country. Unfortunately, health care allocations have not kept up with the changes. The impact of disparate funding has been very obvious to me during my visits to many VA medical centers throughout the country, and particularly in Arizona, and was confirmed by a formal survey of the Carl T. Hayden VA Medical Center in Phoenix, which was conducted by the Veterans of Foreign Wars [VFW] in April 1994.

The problem has been further verified by the General Accounting Office [GAO] in a report entitled ''Veterans Health Care: Facilities' Resource Allocations Could Be More Equitable.'' The GAO found that the Department of Veterans Affairs continues to allocate funding based on past budgets rather than current needs, and has failed to implement the Resource Planning and Management system [RPM] developed 2 years ago to help remedy funding inequity.

Mr. President, the GAO cites VA data that the workload of some facilities increased by as much as 15 percent between 1993 and 1995, while the workload of others declined by as much as 8 percent. However, in the two budget cycles studied, the VA made only minimal changes in funding allocations. The maximum loss to a facility was 1 percent of its past budget and the average gain was also about 1 percent.

This inadequate response to demographic change over the past decade is very disturbing, and, I believe, wrong. To illustrate the problem, I would point out that the Carl T. Hayden VA Medical Center experienced the third highest workload growth based on 17 hospitals of similar size and mission, yet was only funded at less than half the RPM process.

Mr. President, the GAO informs me that rather than implementing the RPM process to remedy funding inequities in access to veterans health care, the VA has resorted to rationing health care or eliminating health care to certain veterans in areas of high demand.

The GAO says:

Because of differences in facility rationing practices, veterans' access to care system wide is uneven. We found that higher income veterans received care at many facilities, while lower income veterans were turned away at other facilities. Differences in who was served occurred even within the same facility because of rationing.

The GAO also indicates that there is confusion among the Department's staff regarding the reasons for funding variations among the VA facilities and the purpose of the RPM system.

Mr. President, this problem must be addressed now. This amendment compels the VA to take expeditious action to remedy this serious problem and adequately address the changes in demand at VA facilities.

To conclude, I want to reiterate that I find it simply unconscionable that the VA could place the Carl T. Hayden VA Medical Center at the bottom of the funding ladder, when the three VA medical facilities in the State of Arizona must care for a growing number of veterans, and are inundated every year by winter visitors, which places an additional burden on the facilities.

I ask unanimous consent that the VFW survey and the GAO summary report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, DC, April 7, 1994.

JOHN T. FARRAR, M.D.,
Acting Under Secretary for Health (10), Veterans Health Administration, Department of Veterans Affairs, Washington, DC.

DEAR DR. FARRAR: A member of my staff, Robert F. O'Toole, Senior Field Representative, conducted a survey of the Phoenix, Arizona, Department of Veterans Affairs Medical Center, on March 14–15, 1994. During his time at the medical center, he was able to talk with many patients, family members and staff. This enabled him to gather information concerning the quality of care being provided and the most pressing problems facing the facility.

While those receiving treatment in the clinics and wards felt that the quality was good, they almost all commented on the long waits in the clinics and the understaffing throughout the medical center. In discussing their problem with various staff members, it was noted that nurses were under extreme stress. More than one was observed by Mr. O'Toole in tears when completing their tour. The nursing staff on evening shifts must rush continually through their duties in an attempt to cover all their patients needs due to the shortage in staffing in both support and technical personnel.

In attempting to determine the reason for this problem, it became apparent that the station was grossly underfunded. Which means that the staff must either take unwanted shortcuts or continue to work beyond the point expected of staffs at the other medical centers. While it is well understood that the Veterans Health Administration is underfunded throughout the system, it is clear from the comparisons that this facility has not received a fair distribution of the available resources resulting in the deplorable situation now facing the health care team.

Another problem in Phoenix that must be addressed is the serious space deficiency, especially in the clinical areas. The ambulatory care area was designed to handle 60,000 annual visits. In fiscal year 1993, the station provided 218,000 annual visits, almost four times the design level. Many physicians are required to conduct exams and provide treatment from temporary cubicles set up inside the waiting rooms. This bandaid approach has added to the already overcrowding.

The other problem that we feel should be pointed out is that of the staffing ceiling assigned to the Carl T. Hayden Veterans Medical Center. Currently, the medical center has a FTE of 1530 which is over the target staffing level. Based on available reports, the medical center would need an additional 61 registered nurses just to reach the average Resource Program Management (RPM) within their group. This facility operates with the lowest employee level in their group when comparing facility work loads, and 158th overall. To reach the average productivity level of the Veterans Health Administration medical centers, they would need an additional 348 full-time employees. While it is realized that this station will never be permitted to enjoy that level of staffing, it is felt that they, at the least, should have been given some consideration for their staffing problems during the latest White House ordered employee reductions.

To assist the medical center to meet their mandatory work load, and the great influx of winter residents, it is recommended that the $11.4 million which was reported to the Arizona congressional delegation to have been given Phoenix in addition to their FY 94 budget be provided. To enable the station to handle the ever increasing ambulatory work load, the Veterans Health Administration must approve the pending request for leased clinic space in northwest Phoenix and, the implementation plan for the use of the Williams Air Force Base hospital as a satellite outpatient clinic, along with the necessary funding to adequately operate the facility. In addition, VHA should approve and fund, at a minimum, the expansion of the medical centers clinical space onto the Indian School land which was acquired for that purpose.

Approval of the above recommendations would make it much easier for this medical center to meet the needs of the ever increasing veteran population in the Phoenix area. There is no indication that the increasing population trends will change prior to the year 2020. This hospital cannot be allowed to continue the downhill slide. The veterans of Arizona deserve a fair deal and the medical staff should be given the opportunity to provide top quality health care in a much less stressful setting.

I would appreciate receiving your comments on the Phoenix VA Medical Center at your earliest opportunity.

Sincerely,

FREDERICO JUARBE, Jr.,
Director, National Veterans Service.

U.S. GENERAL ACCOUNTING OFFICE,
HEALTH, EDUCATION, AND HUMAN SERVICES DIVISION,
Washington, DC, February 7, 1996.

Hon. JOHN MCCAIN,
U.S. Senate.

DEAR SENATOR MCCAIN: The Department of Veterans Affairs (VA) is faced with the challenge of equitably allocating more than $16 billion in health care appropriations across a nationwide network of hospitals, clinics, and nursing homes. The challenge is made greater by the shifting demographics of veterans. While nationally the veteran population is declining, veterans have migrated from northeastern and midwestern states to southeastern and southwestern states in the past decade, offsetting veteran deaths in these states.

VA has historically based its allocations to facilities primarily on their past funding levels—providing incremental increases to facilities' past budgets. In an effort to improve its planning, allocation, and management processes, VA made a considerable investment in implementing a new system, called the Resource Planning and Management (RPM) system, for use initially in fiscal year 1994. VA considers RPM to be a management decision process to use to formulate its budget, allocate most of its resources, and compare facility performance.[1] As the basis for resource allocation, RPM classifies each patient into a clinical care group, calculates average facility costs per patient, and forecasts future workload. VA envisioned that the system would improve VA's management of limited medical care resources, better define future resource requirements, and enable VA to explore opportunities to improve quality and efficiency in its health care system. This vision included improving the equity of its allocations by more closely linking resources with facility workloads and alleviating inconsistencies in veterans' access to care across the system.

Two recent events could have significant implications for VA's resource allocation system. First, VA is restructuring its organization to establish 22 veterans integrated service networks (VISN) that will replace four regional offices and assume the individual facilities' role as the basic budgetary and planning unit for health care delivery. The new structure will require some change in how resources are allocated.[2] Second, the Senate passed your proposed amendment to the VA appropriations bill that would require VA to develop a plan for the allocation of health care resources among its health care facilities to ensure that veterans have the same access to quality health care.[3]

Because of your interest in this issue, you asked us to review the equity of VA's resource allocation system, particularly as it related to the allocations made to the Carl T. Hayden Medical Center in Phoeniz, Arizona. More specifically, you asked us to determine the following:

To what extent does VA's allocation system provide for an equitable distribution of resources among VA facilities?

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[1] Footnotes at end.

What are the causes of any inequity in the distribution of resources, and what changes, if any, would help ensure that the system more equitably distributes resources?

In September 1995, we sent you our preliminary observations.[4] This report presents our final results.

To accomplish our objectives, we first needed to apply a definition of the term ''equity.'' We based our evaluation of the equity of the system's distribution on VA's vision for RPM.[5] We considered the following two elements to be characteristics of an equitable system:

It provides comparable resources for comparable workload.

It provides resources so that veterans within the same priority categories have the same availability of care, to the extent practical, throughout the VA health care system.

We then reviewed VA documents and analyzed RPM system data to determine the degree to which these two elements were present. We discussed potential reasons for any inequities in allocations with VA Headquarters, the Boston Development Center, the RPM Committee, and facility officials in several locations. To assess potential changes to address inequities, we discussed such changes with VA officials and reviewed VA documents on its original plans for RPM and minutes of several RPM committees and work groups. Further details of our scope and methodology are in appendix I. We performed our review between December 1994 and October 1995 in accordance with generally accepted government auditing standards.

RESULTS IN BRIEF

The resource allocation system gives VA the ability to identify potential inequities in resource distribution and to forecast workload changes. Data generated by the system show wide differences in operating costs among facilities that VA considers comparable, even after factors such as locality costs and patient mix differences are considered. VA's data also show some facilities' overall patient workloads increasing by as much as 15 percent between 1993 and 1995, and others' workloads declining by as much as 8 percent. However, in the two budget cycles in which RPM has been in effect, VA used it to make only minimal changes in facilities' funding levels—the maximum loss to any facility was about 1 percent of its past budget and the average gain was also about 1 percent. As such, VA's distribution of resources has remained almost exclusively related to incremental changes to the amount that each facility has received in the past.

To date, VA has chosen not to use the RPM system to help ensure resources are allocated more equitably. VA officials indicated that larger reallocations were not made during the first 2 years of RPM to allow facilities time to understand the process. VA officials also cited several other reasons that significantly larger reallocations among facilities could not be made. Although VA is taking some actions on these issues, it has not fully addressed concerns that (1) facilities cannot efficiently adjust to large budget changes, (2) VA needs a better understanding of the reasons for the variations, and (3) resources allocated to facilities outside the RPM process should also be considered in judging the equity of distributions. VA's reasons for not using RPM to even out differences in veteran access to care were less clear as there appeared to be confusion within VA about whether the resource allocation system was intended to achieve this goal.

FOOTNOTES

[1] VA in 1995 operated 172 hospitals, 375 ambulatory clinics, 133 nursing homes, and 39 domiciliaries. For resource allocation purposes, RPM combines certain health care facilities that are managerially associated. In total the RPM system develops allocations for 167 facilities.

[2] VA officials indicated that as part of this change, the resource planning and management processes it used would change and the system would be renamed. At the time of our review, the system was known as RPM.

[3] On September 26, 1995, the Senate adopted amendment number 2787 to the VA appropriations bill, which was in conference at the time of our review. If it becomes law, the provision would require the Secretary of VA to develop a plan for the allocation of health care resources to ensure that veterans having similar economic status, eligibility priority, and/or similar medical conditions have similar access to care regardless of the region in which the veterans reside. The plan will include, among other things, procedures to identify reasons for variations in operating costs among similar facilities.

[4] See VA's Medical Resource Allocation System (GAO/HEHS–95–252R, Sept. 12, 1995).

[5] This vision was described in the Secretary's statements to the Congress on RPM and in other VA publications.

Mr. GRAHAM. Mr. President, I am here to offer my enthusiastic support as an original cosponsor of Senator MCCAIN's amendment. Mr. President, as a nation, we have always been able to come together in times of crisis—especially in times of war.

Despite our sometimes vehement disagreements, we as citizens of this great country have always been able to put partisanship aside when our young men and women are called to fight for democracy. For this—we can all be very proud. But the strength of a nation is displayed not just during war, but also in its aftermath. When the battles have long since raged, and the memories of welcome home parades have faded, it is at this time when our Nation can proudly display its commitment to those who fought the battles to keep this country free—our Nation's veterans. Mr. President, please take note when I say ''Our Nation's Veterans.'' They are not Florida's veterans or Arizona's veterans or New York's veterans. They are our veterans, and we as a nation have a collective responsibility to honor the commitment we made to them. When Members of this honorable body, including my esteemed colleague from Arizona, volunteered to do battle for America's freedom, no one asked what geographic region they came from. That question would have been so insignificant as to border on the absurd.

Sadly, after our veterans returned home, and it is our turn to honor our commitments to them—where they live matters a great deal. Mr. President, just last month, the General Accounting Office published a rather startling report.

Allow me to highlight a few of the report's findings.

The Department of Veterans Affairs has had a system in place for 3 years, known as RPM—Resource Planning and Management—designed to give veterans better access to health care regardless of where they live. While not perfect, the system as designed would go a long way toward equal treatment for veterans.

However, despite the time, money, and effort put into designing such a system—VA has chosen not to use it. Between 1993 and 1995, some VA facilities' patient workloads have skyrocketed by as much as 15 percent. At other facilities, patient workloads have decreased by 8 percent.

Despite this wide disparity in patient workload change, the VA has used its own resource allocation system to change any given facility's budget by the minuscule total of plus or minus 1 percent.

The decision to pay homage to bricks and mortar rather than to our Nation's veterans has its price—and our Nation's veterans pay it. GAO reports that patient workload increases above historical workload are funded at 17 cents on the dollar—so if a veteran moves from New York to Florida—he will get 83 percent less care solely because he moved. That is not right.

Surely, though, the VA must have compelling reasons for not acting on the RPM system. Surely, there must be terrible consequences should VA decide to forgo the status quo. Again, sadly—no. VA's justifications for inertia are weak—but here they are.

First, VA claims that facility managers will have difficulty in adjusting to the large budgetary changes that would come about should resource allocation become more equitable. Mr. President, isn't adjusting to budget fluctuations what makes for good management, and in this case good government? In a private sector system, the chief executive of the hospital makes budgetary decisions based on forecasting patient workload on an annual basis. Why should we demand any less from the VA? Further, any difficulties VA facility managers have in adjusting to budgetary changes pale in comparison to the difficulties our veterans face as a result of VA's inertia. This seems to me, Mr. President, as a perfect example of the tail wagging the dog.

Second, the second justification for failing to treat veterans equally is that VA doesn't understand why some facilities are able to make do with less funding while others require more resources for the same number of patients. VA reasons that until it understands why some facilities are more efficient than others, the agency won't implement a system that achieves fairness. Mr. President, it is a given that facilities which receive more than their share of resources will use all of these resources and facilities which receive less than their share will struggle and make do as best they can—rationing care along the way. But there are breaking points for even the most efficient facilities. And the consequences for these facilities fall squarely on our Nation's veterans and manifest themselves in concrete ways.

For instance, a veteran who would normally have to wait 2 weeks to see an orthopedic surgeon may have to wait 6 months to see one should he choose to retire to Florida and Arizona. Or, a veteran who used to get free prescription glasses up North is laughed out of the VA facility down South. Because of this disparity, some

veterans are forced to move back home to get the care to which they are accustomed. Others simply give up in despair. Mr. President, we can help to rectify this inequity today. Right now. Our amendment would simply mandate that VA develop a plan for their fair allocation of resources to ensure that veterans having similar economic status, eligibility priority, and similar medical conditions have similar access to care regardless of where they live. And in the end, providing equal care to all our Nation's veterans is what the VA health care system is all about.

We as politicians can quibble over such terms as construction projects, resource allocation methodology, and patient workload, but one thing is certain: We all have a stake in honoring our collective commitment to our veterans—and they deserve no less.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, the managers' amendment to the omnibus appropriations bill for fiscal year 1996 includes a provision—added on behalf of myself and Senator KEMPTHORNE—to increase the appropriation for Endangered Species Act listing activities by the U.S. Fish and Wildlife Serivce from $750,001 to $2,000,001. The total amount available for the Fish and Wildlife Service's resource management activities is increased by $1,249,999 to accommodate this addition to the listing account. Senator KEMPTHRONE and I proposed this amendment in order to address concerns raised during debate last week on the Endangered Species Act listing moratorium.

Let us review the bidding.

On March 13, the Senate approved a second-degree amendment offered by Senator HUTCHISON and Senator KEMPTHORNE to Senator REID's underlying amendment to strike the moratorium on final listings under the Endangered Species Act. The Hutchison second-degree amendment imposes a moratorium on final decisions to list species as threatened or endangered and on final decisions to designate critical habitat. However, the Hutchison amendment allows the Fish and Wildlife Service to use funds appropriated under the omnibus bill to issue emergency listings, to propose species for listing, and to review and monitor species on the candidate list.

Mr. President, I oppose Senator HUTCHISON's second-degree amendment because I believe that a moratorium on adding species to the threatened and endangered list is wrong. Thus, I supported Senator REID's amendment to strike the provisions that would impose a moratorium on adding new species to the threatened and endangered lists. Make no mistake about it—I continue to oppose the provision in this bill that would impose a moratorium on final decisions by the Secretary of the Interior or the Secretary of Commerce to list a species or to designate critical habitat under the Endangered Species Act.

During the March 13 debate on the ESA moratorium, it was pointed out that the second-degree amendment offered by Senators HUTCHISON and KEMPTHORNE increased the authority of the Fish and Wildlife Service, as compared to that included in the underlying bill, but provided only $1 in new funding. This would have resulted in a difficult situation for the Fish and Wildlife Service as appropriations for listing activities would have been sorely inadequate to meet the needs and requirements of the law. In other words, it would have been nearly impossible for the Service to perform the tasks that are authorized under the Hutchison language—tasks such as decisions on emergency listings or responses to citizen petitions—without an increase in funding. The $1,249,999 that is added to the listing account under this amendment is intended to provide the U.S. Fish and Wildlife Service with funding necessary to perform emergency listings and other listing activities that are authorized under the Hutchison amendment.

Mr. President, it was a pleasure to work with Senator KEMPTHORNE and Senator HUTCHISON on this amendment. And, while I oppose the ESA listing moratorium, I believe that—working together to secure additional funding for listing activities—we have improved the prospects for orderly, effective research and conservation efforts by the Fish and Wildlife Service. It is my hope that we can continue to work together to enact responsible legislation to reauthorize the Endangered Species Act later this year.

I would like to thank Senators HATFIELD and GORTON and their Appropriations Committee staff for their assistance with this amendment. Also, I very much appreciate the willingness of Senator HATFIELD and of Senator BYRD to include this provision in the managers' amendment.

HIV-POSITIVE SERVICEMEMBERS

Mr. NUNN. Mr. President, the National Defense Authorization Act for fiscal year 1996, which was signed into law by the President on February 10, 1996, contains a provision which mandates the discharge of every member of the Armed Forces who is HIV positive within 6 months.

At the present time, the services have in place procedures for medically separating HIV-positive personnel who are physically disabled. Those who are not disabled are placed in a nondeployable status but continue to perform military duties.

This is similar to the status of others whose medical condition—such as cancer, heart disease, asthma, and diabetes—restrict deployability but not the capability to provide valuable military service.

The new procedure would require the Armed Forces to discharge, not later than August 31, 1996, those who are physically capable of performing their military duties and who are, today, providing valuable service to the Nation.

The new mandatory discharge policy rejects the judgment of the Armed Forces that HIV-positive servicemembers should be treated no differently from others whose medical condition renders them nondeployable.

That judgment was made by the Joint Chiefs of Staff during the Reagan administration, and was recently reemphasized by Secretary of Defense, Bill Perry, and JCS Chairman, Gen. John Shalikashvili.

The new policy represents a sharp break with the traditional military practice of considering medical discharge on a case-by-case basis. In my judgment, the new policy is unnecessary, wasteful, unfair, and unwise.

The new policy is unnecessary because HIV-positive personnel represent a tiny fraction of our Armed Forces. Out of the 1.4 million members of the Armed Forces on active duty, only 1,150 are HIV positive. That is less than one-tenth of 1 percent.

Moreover, these HIV-positive servicemembers constitute only one-fifth percent of the 5,000 personnel in the military who are permanently nondeployable for medical reasons.

If we can usefully accommodate some 4,000 individuals who are nondeployable for reasons other than HIV, there is no reason why we should discharge the small additional fraction who are HIV positive.

The policy is wasteful because it will be throwing away the large investment the military has made in the training and experience of individuals who can still make a valuable contribution to the Armed Forces. Why throw away that investment at the peak of an individual's career?

Not only will the new policy waste our recruitment and training dollars, it will throw away invaluable experience.

Consider the case of the sergeant who has been married for 10 years, who has a child, and who is HIV positive. His service record is full of honors, including an award for automating a warehouse system that saved the Navy an estimated $2 million over a 2-year period.

He has 12 years of service and has been HIV positive for 5 years. There is reasonable likelihood that he could serve for many more years, with the potential to develop systems that will save millions more for the Navy.

This new policy will deprive him of his livelihood and deprive the taxpayers of the contributions that he can make to greater efficiency and savings.

The new policy is unfair because it will leave many servicemembers without employment for themselves and health care for their families. There is a sergeant with 13 years of service who is married, with three children. He is HIV positive, as is his wife and two of the three children.

Under the new policy, he is the only one of the family who will retain a right to DOD medical care. His family, including his HIV positive wife and two HIV positive children, will be excluded from any DOD health care.

As a result of the bill, he will be discharged from service, lose his employment, loss his retirement potential, and lose his family's medical care.

This is an individual who is perfectly capable of performing military duties, yet we are going to throw away our investment in him and place him in dire financial straits—even though those who are non-deployable for reasons other than HIV will remain in service. That is unfair.

The new policy is unwise, because it could undermine the traditional doctrine of judicial deference to Congress in the realm of military personnel policy.

In a 1994 essay in the Wake Forest Law Review, I examined the Supreme Court's precedents and concluded that the Court's jurisprudence reflected ''the highest degree of deference to the role of Congress and respect for the judgment of the Armed Forces in the delicate task of balancing the interests of national security and the rights of military personnel.''

I also noted, however, that the Supreme Court emphasized that Congress is not free to disregard the Constitution when it acts in the area of military affairs. Consequently, it is essential that Congress act with care when it establishes procedures that would impose conditions on military service that would be constitutionally impermissible in civilian life.

In the case of the new HIV discharge policy, we have not acted with care. It is instructive to contrast the development of the new policy with the process followed in 1993 when the legislative and executive branch considered the policy on homosexuality in the Armed Forces.

In February 1993, Congress rejected an amendment that would have imposed a policy without any hearings of deliberation. Instead, we provided for a 6 month detailed review within the executive branch and Congress.

That period provided an opportunity for the Department of Defense and Congress to hold hearings, receive testimony from the members of the Armed Forces, legal and academic experts, and interested members of the public. The Senate Armed Services Committee alone complied a record of more than 1,000 pages in testimony.

The hearing process and DOD reviews in 1993 were followed by the development of a proposed DOD policy and specific legislation, including detailed legislative findings. The findings focused on clear expert testimony on the impact on unit cohesion, morale, discipline, and military effectiveness.

The civilian and military leadership of the Department of Defense supported the legislation; it was overwhelmingly approved after thorough debates in both the House and the Senate, was signed into law by the President, and has been defended by the Department of Justice in the face of several legal challenges.

Although there may be disagreement on the merits of the 1993 policy, the process ensured careful and thorough review by the legislative and executive branches of the relevant policy and constitutional issues. The process was designed to provide for careful and thorough review. The contrast to the development of the new HIV policy could not be more striking.

There has been no review within the executive branch. In fact, the military leadership views the policy as unnecessary and unfair.

The House did not develop a detailed legislative record, and the provision was not even included in the Senate-passed bill.

There is not a clearly articulated legislative basis for treating HIV-positive personnel in a manner that differs from the treatment of other nondeployables.

In the absence of careful legislative consideration, it could be difficult for the new policy to survive a constitutional challenge—particularly in terms of the weak arguments for the policy.

Supporters of the provision have relied primarily on three reasons to justify the provision.

First, they believe that the retention of HIV-positive personnel degrades unit readiness. There has been no showing, however, that the small fraction of nondeployable personnel who are HIV positive have a significantly greater impact in this regard than the large number of persons who are nondeployable for other reasons.

The second reason given for the policy is to establish deployment equity on the grounds that if a person is nondeployable, other servicemembers stand a greater risk of deployment. That concern might be appropriate if the numbers were significantly greater and if the HIV positive personnel were the only nondeployables. For example, if the number of HIV positive personnel in the Marine Corps were to become a significant percentage, then the HIV policy would have to be reconsidered together with the policies that retain servicemembers who are medically nondeployable for reasons such as cancer, diabetes, asthma, and heart disease.

This however, is not the case today. The numbers are tiny and the persons who are nondeployable for other reasons greatly outnumber those who are HIV positive.

The third rationale offered by supporters of the policy is that discharge is warranted because, it is asserted, persons who are HIV positive likely contracted the infection through sexual misconduct or drug abuse.

There are two problems with this argument. First, it ignores the well-established medical fact that HIV can and often is transmitted through actions that do not involve military misconduct, such as blood transfusions and heterosexual conduct.

Second, there are ample administrative and judicial procedures in the Armed Forces to discipline those who engage in misconduct involving sex and drugs. The record does not establish a military need to discharge all who are HIV positive in order to maintain good order and discipline.

The administration, believing the new provision to be unconstitutional, has determined that it will obey the law but not defend it in court.

As a result, the judiciary will be thrust into the midst of a constitutional debate on a controversial military personnel matter with a sparse legislative record and a severe split between Congress and the President.

It is an invitation to undermine the doctrine of deference, which has served so well and so long to ensure that the Armed Forces have the tools necessary to maintain good order and discipline without interference from the courts.

For that reason alone, the provision should be repealed.

This provision was not part of the Senate-passed authorization bill. I opposed this provision during the conference with the House of Representatives on the authorization bill and I spoke out against it on the floor of the Senate during debate on the conference report.

Today, I support the amendment that would repeal this provision.

Mrs. BOXER. Mr. President, despite my objections to the omnibus appropriations bill, I am pleased that it includes an amendment overturning the prohibition on military service by HIV-positive personnel. As my colleagues are aware, this grossly unfair prohibition was established in the fiscal year 1996 DOD authorization bill and will become effective this summer.

I opposed the fiscal year 1996 DOD authorization bill largely because of this provision. The day the Senate approved that provision, I vowed to mount an effort for repeal. I am pleased that today, the full Senate has joined in that fight.

The policy now in effect—developed in the Reagan and Bush administration—works well. The amendment contained in this bill reinstates the current policy, in which military personnel who test positive for the HIV virus are permitted to keep their jobs, so long as they are physically able.

Currently, HIV-positive personnel are treated in the same manner as other soldiers with chronic ailments such as diabetes and heart disease. Only about 20 percent of the roughly 6,000 worldwide nondeployable troops are HIV positive.

Dismissing all HIV-positive soldiers makes no sense. Why should the Pentagon fire military personnel who perform their duties well and exhibit no signs of illness? This would waste millions of tax dollars in unnecessary separation and retraining costs.

Backers of this provision argue that HIV-provision personnel degrade readiness because they are not eligible for worldwide deployment. This argument is absurd. Can anyone seriously contend that about 1,000 personnel—less than 0.1 percent of the active force—could have a meaningful impact on readiness?

Assistant Secretary of Defense Fred Pang clearly expressed the Department's position, writing,

As long as these members can perform their required duties, we see no prudent reason to separate and replace them because of their antibody status. However, as with any Service member, if their condition affects their performance of duty, then the Department initiates separation action . . . the proposed provision would not improve military readiness or the personnel policies of the Department.

Lt. Gen. Theodore Stroup, Jr., Army Deputy Chief of Staff for Personnel has echoed these sentiments, writing,

It is my personal opinion that HIV-infected soldiers who are physically fit for duty should be allowed to continue on active duty.

I ask unanimous consent that a column I wrote on this subject for the Los Angeles Times be printed at this point in the RECORD.

[From the Los Angeles Times, Feb. 6, 1996]

CONGRESS MISSES THE ''MAGIC'' SHOW

MILITARY: A BILL OUSTING THE HIV-POSITIVE HAS NOTHING TO DO WITH READINESS; IT'S SIMPLY DISCRIMINATION

(By Barbara Boxer)

Americans cheered last week as Earvin ''Magic'' Johnson triumphantly returned to the Los Angeles Lakers. In just 27 minutes, he scored 19 points and dispelled any remaining doubt about his ability to compete at the highest level.

To their credit, Magic's fans, coaches, teammates and even his NBA opponents welcomed him back with open arms. Imagine how absurd it would be if Congress, just as Magic demonstrated his Hall of Fame talent, passed a law requiring the NBA to fire all basketball players who have the HIV virus.

This past week, Congress did something just that absurd.

A little-noticed provision of the annual military spending bill requires the Pentagon to fire all soldiers, sailors and Marines who test positive for the HIV virus, even if they perform their duties as skillfully as Magic Johnson makes a no-look pass. The military strongly objected to this provision, but Congress did not care. The president has called the new policy unfair, but because it is part of a larger bill that includes urgently needed funding for our troops in Bosnia, he will sign it into law.

Under current policy, military personnel with the HIV virus are permitted to remain in the services as long as they are able to perform their duties. If their health deteriorates, the military initiates separation procedures and provides disability benefits and continued health insurance coverage for them and their dependents. So they can remain near health care providers, military personnel with HIV are placed on ''worldwide nondeployable status,'' which means that they cannot be sent on overseas missions. Soldiers with other serious chronic illnesses, such as severe asthma, cancer and diabetes are also nondeployable. In fact, only about 20 percent of the more than 5,000 nondeployable personnel are infected with HIV.

The congressional authors of the new policy, led by Rep. Robert K. Dornan of Orange County, argue that nondeployable personnel degrade military readiness because they cannot be sent overseas. However, their true motive appears to be less lofty than protecting the readiness of our forces. The new policy irrationally singles out military personnel with HIV. If backers truly believe that nondeployable personnel harmed readiness, why wouldn't they seek to oust soldiers with diabetes and asthma? The only conceivable answer is that readiness is not their real motivation. Their motivation is discrimination, pure and simple.

Can anyone seriously contend that 1,059 HIV-positive soldiers—less than 0.1 percent of the total force—can meaningfully affect readiness? The Pentagon doesn't think so. Its top personnel policy expert, Assistant Defense Secretary Fred Pang, recently wrote that ''as long as these members can perform their required duties, we see no prudent reason to separate and replace them . . . The proposed provision would not improve military readiness or the personnel policies of the department.''

If Magic Johnson can run and leap with the best of them, why can't a military clerk file with the best of them, or a military driver drive with the best of them?

Perhaps the worst aspect of the new policy is its total rejection of the compassion and camaraderie for which the armed forces are rightfully praised. The United States of America does not kick its soldiers when they are down. We have a proud tradition of standing by those courageous enough to dedicate their careers to the defense of our nation. That tradition will end the day this new policy is enacted.

Military personnel discharged under the new policy will lose their jobs even if they exhibit no signs of illness. They will lose their right to disability benefits and their spouses and children will lose their health care coverage. This policy is worse than wrong, it is un-American.

The same day that President Clinton signs the bill that includes this new policy, a bipartisan group of senators will introduce legislation to repeal it. The president and our senior military leaders support repeal. Despite their strong support, the odds are unclear. But I am certain about one thing: Those who vote ''no'' should take a good look in the mirror.

DISASTER-RELATED FUNDS

Mr. MCCAIN. Mr. President, my amendment will require that any disaster-related funds earmarked in this bill for specific projects by Federal agencies will be allocated according to the established, priority-based procedures of those agencies.

This amendment would ensure that funds disaster-related funding allocated by the Economic Development Administration, the U.S. Department of Agriculture, the Department of Housing and Urban Development, the Small Business Administration, and the National Park Service, will be awarded based on need—and not according to unauthorized earmarks.

This amendment will not reduce the funding in this bill, nor direct these agencies to give preferential priority to any particular project, State, or region of the country.

This proposal is entirely fair and equitable to all of the States and communities that we represent. It plays no favorites, and offers no advantages to individuals who may be well-intentioned in their desire to receive funding for a local project. This amendment will simply ensure that taxpayer funding made available under this appropriations bill will be spent according to recognized priorities, as opposed to congressionally mandated earmarks.

Let me discuss just one example of what I believe is an inappropriate expenditure of taxpayer dollars that was added to the legislation before us. Last week, an amendment was offered to this bill, and adopted without a recorded vote, that would provide a total of $13.8 million for an unauthorized flood control project.

That amendment directs the Economic Development Administration [EDA] to spend $10 million for flood control work at Devil's Lake Basin in North Dakota; it also directs the U.S. Fish and Wildlife Service to spend $3.8 million for related work at Devils Lake Basin. The approximately $14 million in new taxpayer dollars for this project was not requested by the agencies to be funded in this bill, nor was the project subjected to any competitive evaluation process by the EDA or HUD.

Mr. President, I don't think this is how the Senate should be doing business. And I definitely don't think this is how we should be spending taxpayer's dollars, at a time when we have scarce resources with which to address many serious disaster needs across the country.

I believe earmarking funds for a specific project is unfair, especially with respect to vital flood control programs. It clearly undermines the competitive-review process that ensures that the most urgent needs of distressed cities and townships all across America are properly addressed.

While I'm sure that this situation in North Dakota is worthy of attention, we have no way of knowing that it represents the most serious need for Federal emergency assistance.

As most of my colleagues are aware, the Economic Development Administration [EDA] provides grants for infrastructure programs and community projects in economically distressed areas. In doing so, the EDA is barraged with hundreds and hundreds more requests for Federal aid than they can possibly fulfill. In fact, Mr. President, the EDA has such a backlog on official funding requests that they stopped accepting additional applications almost a year ago.

The EDA makes its funding awards through its regional offices on a competitive, agency-review basis. Right now the EDA has almost 600 funding requests awaiting final decisions—600. These requests represent the pleas of communities across the United States for help from the Federal Government due to military base closures, job losses, natural disaster, and declining local economies. Nationally, the EDA has received over $320 million in community-based funding requests that local officials and residents are anxiously awaiting an answer on.

Clearly, the EDA has an extremely difficult task in deciding which projects to fund. They do so by considering factors such as an areas' per capita income; unemployment rate; the local poverty level; the loss of population in the community; and the general distress level of residents in the area. There will always be more disappointed applicants than there are

winners in a competitive system, but at least the EDA is utilizing a set of economic criteria to ensure that the taxpayer dollars it administers are scrutinized, and flow to the projects which represent truly compelling needs.

Mr. President, we have before us a mammoth new appropriations bill which presents an inviting target for Members to evade this competitive system, and bypass its reasonable guidelines for the expenditure of taxpayer dollars. The earmark added to this bill effectively sweeps aside higher priority requests, and arbitrarily puts one unauthorized project at the head of the line. Instead of a community receiving flood control assistance because it's needs are urgent and meritorious, this one project will prevail over hundreds of others because it secured political support. Well intentioned support, I'm sure, but unfair nonetheless.

As I have said many times on this floor, Mr. President, during one of my many unsuccessful attempts to curb the Congress's seemingly unquenchable thirst for more spending, my criticisms about this specific project is about process. I in no way contend that the Devils Lake Basin flood control program is unnecessary. I fully recognize that the Senators from North Dakota are affirmatively responding to requests for assistance from some of their constituents.

What I do contend is that the Senate should not respond to such requests—requests that all 100 Members of this body receive on a daily basis—in a manner that circumvents a thorough, merit-based process, and substitutes quick-and-easy earmarks in yet another emergency spending bill.

While I am opposed to the Senate again condoning what I feel is an indefensible process, let me state that I have not offered this amendment out of any respect for endless bureaucratic analysis; I offer it because there are dire problems facing our communities and the taxpayers who support them, and it is wrong to subvert their efforts to play by the rules when they are in need of Federal disaster aid.

Again, I don't question the possible benefits of the Devil's Lake Basin project. I do question the wisdom in the Senate boosting it to the head of the line for funding from the Economic Development Administration, when there are 84 other project's among North Dakota's neighboring States that are also anxiously awaiting funding. Unlike Devil's Lake Basin, however, these communities are properly competing for funding from the EDA for their disaster needs.

I have been advised by the EDA, Mr. President, that they did not request funding for the Devil's Lake Basin project, nor have the project's sponsors officially filed a request for funds with the EDA's Denver Regional Office, which allocates funding to North Dakota and nine other Western and Midwestern States. Therefore, dozens of communities in States such as Colorado, Kansas, Missouri, South Dakota, Iowa, Wyoming, and Utah will continue to have their needs go unaddressed by EDA, while $10 million in new moneys they might have competed for will instead be diverted to a single project.

I am not talking about mere pennies, either. The total earmark for the Devils Lake Basin project in this bill is larger than the entire expected budget of the EDA's Denver Regional Office for fiscal year 1996. This one project will receive almost $13 million in Federal aid, while 84 communities in the above 9 States will have to compete with each other for the $11 million that the Denver office is anticipating for this year. Without a doubt, a number of these requests are emergency projects.

Regrettably, many communities who have developed meritorious proposals, and are willing to play by the rules by competing for scarce taxpayer dollars, will never get a dime from the EDA.

Obviously, Mr. President, every Senator in this body is interested in receiving Federal funds for infrastructure and disaster aid for their State. I'm certainly no exception. Arizona has over $6 million in requests pending with the EDA, some of which have been pending for several years. For Arizona to even have a chance at having one project funded, communities in my State must compete with 115 requests from seven other States in Region 7, which includes California, Idaho, Alaska, and Hawaii. These States currently have over $100 million in requests pending at the EDA. Most of these will be rejected due to the intense competition, yet Devils Lake Basin is guaranteed $10 million without having to face any competition.

The $3.8 million earmark for the Devils Lake Basin project in this bill from the Fish and Wildlife Service is similar in the respect that it was not officially requested by the agency, in its submission to the Appropriations Committee for inclusion in this bill. There are other earmarks in the bill, as well.

The amendment I am offering is very simple, and entirely fair to every Member of this body, and every State in our Nation. It simply says that funding provided in this bill to the EDA, the Fish and Wildlife Service, HUD, and other agencies will be awarded according to the established prioritization process of those agencies.

Mr. KENNEDY. Mr. President, I rise to express my deep concern about the title VIII of the pending appropriations bill, the so-called Prison Litigation Reform Act [PLRA].

Its proponents say that the PLRA is merely an attempt to reduce frivolous prisoner litigation over trivial matters. In reality, the PLRA is a far-reaching effort to strip Federal courts of the authority to remedy unconstitutional prison conditions. The PLRA is itself patently unconstitutional, and a dangerous legislative incursion into the work of the judicial branch.

In my view, the effort to enact this proposal as part of an omnibus appropriations bill is inappropriate. Although a version of the PLRA was introduced as a free-standing bill and referred to the Judiciary Committee, it was never the subject of a committee mark-up, and there is no Judiciary Committee report explaining the proposal. The PLRA was the subject of a single hearing in the Judiciary Committee, hardly the type of thorough review that a measure of this scope deserves.

At the hearing, Associate Attorney General John Schmidt expressed serious concerns about the feasibility and consequences of the PLRA. While Mr. Schmidt did not take issue with provisions in the PLRA that merely seek to curb frivolous prison litigation, he noted that other aspects of the proposal would radically and unwisely curtail the power of the Federal courts to remedy constitutional and statutory violations in prisons, jails, and juvenile detention facilities.

I understand that my colleague from Illinois intends to include relevant excerpts of Mr. Schmidt's testimony in the RECORD, but I will just highlight several of the objections that he raised, all of which I share. Mr. Schmidt observed that:

> The effort to terminate all existing consent decrees ''raise[s] serious constitutional problems'' under doctrines reaffirmed by the Supreme Court as recently as this year;
>
> Provisions limiting the power of federal courts to issue relief in prison conditions cases would ''create a very substantial impediment to the settlement of prison conditions suits—even if all interested parties are fully satisfied with the proposed resolution.'' ''This would result in litigation that no one wants . . . and could require judicial resolution of matters that would otherwise be more promptly resolved by the parties in a mutually agreeable manner'';
>
> The proposal to terminate relief two years after issuance is misguided because, in those cases where the problems have not been remedied, the ''Justice Department and other Plaintiffs would have to refile cases in order to achieve the objectives of the original order, and defendants would have the burden of responding to these new suits. Both for reasons of judicial economy, and for the effective protection of constitutional rights, we should aim at the resolution of disputes without unnecessary litigation and periodic disruption of ongoing remedial efforts.''

All of these problems remain in the legislative language before us today.

In addition, I call to the attention of my colleagues an assessment prepared by the Administrative Office of the United States Courts dated June 21, 1995. The Office found that the ''potential annual resource costs of [the bill] could be more than $239 million and 2,096 positions, of which at least 280 would be judicial officers—Article III judges and/or magistrate judges.'' The bill appropriates no funds to the Federal judiciary to offset this enormous fiscal impact.

Finally, I note with great concern that the bill would set a dangerous precedent for stripping the Federal courts of the ability to safeguard the

civil rights of powerless and disadvantaged groups.

I do not intend to offer an amendment to this bill, because it is clear that a majority of the Senate would not vote to strike the provision, and I do not believe the Senate is positioned to consider detailed improvements to the PLRA during debate on this omnibus appropriations bill. But the abbreviated nature of the legislative process should not suggest that the proposal is noncontroversial in Congress.

It is my hope that after the President vetoes this bill, as I expect he will, that the administration seek to negotiate changes in the PLRA that remedy the profound constitutional, fiscal, and practical problems outlined by Mr. Schmidt and other experts.

I ask unanimous consent that a copy of a letter sent by myself and four other Senators to the Attorney General on this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 2, 1996.

Hon. JANET RENO,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: We write to express our concern about aspects of the Prison Litigation Reform Act (PLRA), which has passed Congress as title VIII of the Commerce, State, and Justice Departments Appropriations bill. President Clinton vetoed this appropriations bill on December 18, but it is our understanding that issues such as the PLRA may be the subject of negotiations between the Administration and members of the Appropriations Committees in the coming weeks.

We do not take issue with provisions in the PLRA that merely seek to curb frivolous prison litigation. But in other respects, the PLRA is far reaching legislation that would unwisely reduce the power of the federal courts to remedy constitutional and statutory violations in prisons, jails, and juvenile detention facilities.

PLRA was considered as one of many issues on the appropriations bill. For this reason, PLRA passed on a voice vote following relatively brief debate. But the manner in which the bill passed the Senate should not suggest to you that the Senate considers the proposal to be entirely noncontroversial.

In particular, we share some of the concerns that Associate Attorney General John R. Schmidt raised in his testimony before the Senate Judiciary Committee on July 27, 1995. Mr. Schmidt noted that provisions limiting the power of federal courts to issue relief in prison conditions cases would ''create a very substantial impediment to the settlement of prison conditions suits—even if all interested parties are fully satisifed with the proposed resolution.'' ''This would result in litigation that no one wants . . . and could require judicial resolution of matters that would otherwise be more promptly resolved by the parties in a mutually agreeable manner.''

Mr. Schmidt also pointed out that the proposal to terminate relief two years after issuance is troublesome because, in those cases where the problems have not been remedied, the ''Justice Department and other Plaintiffs would have to refile cases in order to achieve the objectives of the original order, and defendants would have the burden of responding to these new suits. Both for reasons of judicial economy, and for the effective protection of constitutional rights, we should aim at the resolution of disputes without unnecessary litigation and periodic disruption of ongoing remedial efforts.''

These problems have not been remedied by the changes made to the proposal since Mr. Schmidt's testimony.

We also call to your attention an assessment prepared by the Administrative Office of the United States Courts dated June 21, 1995. The Office found that the ''potential annual resource costs of [the bill] could be more than $239 million and 2,096 positions, of which at least 280 would be judicial officers (Article III judges and/or magistrate judges).'' The bill appropriates no funds to the federal judiciary to offset this enormous fiscal impact.

We suggest that the Administration negotiate changes in the PLRA that remedy the serious fiscal and practical problems outlined by Mr. Schmidt and other experts.

Thank you for your attention to this important matter.

Sincerely,

FRED THOMPSON.
JIM JEFFORDS.
TED KENNEDY.
JOE BIDEN.
JEFF BINGAMAN.

Mr. SIMON. Mr. President, I join Senator KENNEDY in raising my strong concerns about the Prison Litigation Reform Act, a section of S. 1594. In attempting to curtail frivolous prisoner lawsuits, this legislation goes much too far, and instead may make it impossible for the Federal courts to remedy constitutional and statutory violations in prisons, jails, and juvenile detention facilities. No doubt there are prisoners who bring baseless suits that deserve to be thrown out of court. But unfortunately, in many instances there are legitimate claims that deserve to be addressed. History is replete with examples of egregious violations of prisoners' rights. These cases reveal abuses and inhumane treatment which cannot be justified no matter what the crime. In seeking to curtail frivolous lawsuits, we cannot deprive individuals of their basic civil rights. We must find the proper balance.

My colleague from Illinois, Associate U.S. Attorney General John Schmidt, testified before the Senate Judiciary Committee on July 27, 1995, and raised numerous concerns about this legislation. I have included a copy of his comments for my colleagues to review. I should also note that at the same hearing, former Attorney General Barr of the Bush administration, agreed with the assertion that there are constitutional problems with the bill as drafted which have not yet been addressed.

As outlined in Mr. Schmidt's testimony, the bill has so many problems that I cannot list them all here. So let me describe just a few. First, the bill severely limits the options available to States and courts in remedying legitimate complaints. For example, the bill makes it virtually impossible for States to enter into consent decrees even when the consent decree may well be in the State's best interest for both fiscal and policy reasons. Similarly, this legislation, by creating new and burdensome standards of review, would effectively prohibit courts from placing population caps on prisons. Prison overcrowding obviously creates a serious threat to the general public, as well as to prison staffs and the inmates themselves. We must not exacerbate this problem. Furthermore, the bill places undue burdens on States and courts by requiring that relief be terminated 2 years after issuance even in cases where the problems have not been remedied

I am very discouraged that this legislation was considered as one of many issues on an appropriations bill. Legislation with such far reaching implications certainly deserves to be thoroughly examined by the committee of jurisdiction and not passed as a rider to an appropriations bill. I urge the White House to carefully review these provisions and work with Congress to make the necessary changes to remedy the myriad of constitutional and practical problems found in this far-reaching legislation.

I ask unanimous consent that the relevant portions of Mr. Schmidt's testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JOHN SCHMIDT

REFORMS RELATING TO PRISONER LITIGATION

The Department also supports improvements of the criminal justice system through the implementation of other reforms. Several pending bills under consideration by the Senate contain three sets of reforms that are intended to curb abuses or perceived excesses in prisoner litigation or prison conditions suits.

The first set of provisions appears in title II of H.R. 667 as passed by the House of Representatives, and in §103 of S. 3. These provisions strengthen the requirement of exhaustion of administrative remedies under the Civil Rights of Institutionalized Persons Act (CRIPA) for state prisoner suits, and adopt other safeguards against abusive prisoner litigation. We have endorsed these reforms in an earlier communication to Congress.[1] We also recommend that parallel provisions be adopted to required federal prisoners to exhaust administrative remedies prior to commencing litigation.

The second set of provisions appears in a new bill, S. 866, which we have not previously commented on. The provisions in this bill have some overlap with those in §103 of S. 3 and title II of H.R. 667, but also incorporate a number of new proposals. We support the objectives of S. 866 and many of the specific provisions in the bill. In some instances, we have recommendations for alternative formulations that could realize the bill's objectives more effectively.

The third set of provisions appears in S. 400, and in title III of H.R. 667 as passed by the House of Representatives, the ''Stop Turning Out Prisoners'' (STOP) proposal. The Violent Crime Control and Law Enforcement Act of 1994 enacted 18 U.S.C. 3626, which limits remedies in prison conditions litigation. The STOP proposal would amend this section to impose various additional conditions and restrictions. We support the

[1] Letter of Assistant General Shalla F. Anthony to Honorable Henry J. Hyde concerning H.R. 3, at 17–19 (January 26, 1995).

basic objective of this legislation, including particularly the principle that judicial caps on prison populations must be used only as a last resort when no other remedy is available for a constitutional violation, although we have constitutional or policy concerns about a few of its specific provisions.

A. The Provisions in §103 of S. 3 and H.R. 667 title II

As noted above, we support the enactment of this set of provisions.

The Civil Rights of Institutionalized Person Act (42 U.S.C. §1997e) currently authorizes federal courts to suspend §1983 suits by prisoners for up to 180 days in order to require exhaustion of administrative remedies. Section 103(a)–(b), (e) of S. 3 strengthens the administrative exhaustion rules in this context—and brings it more into line with administrative exhaustion rules that apply in other contexts—by generally prohibiting prisoner §1983 suits until administrative remedies are exhausted.

As noted above, we recommend that this proposal also incorporate a rule requiring federal prisoners to exhaust administrative remedies prior to commencing litigation. A reform of this type is as desirable for federal prisoners as the corresponding strengthening of the exhaustion provision for state prisoners that now appears in section 103 of S. 3. We would be pleased to work with interested members of Congress in formulating such a provision.

Section 103(c) of S. 3 directs a court to dismiss a prisoner §1983 suit if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious. A rule of this type is desirable to minimize the burden on states of responding unnecessarily to prisoner suits that lack merit and are sometimes brought for purposes of harassment or recreation.

Section 103(d) of S. 3 deletes from the minimum standards for prison grievance systems in 42 U.S.C. 1997e(b)(2) the requirement of an advisory role for employees and inmates (at the most decentralized level as is reasonably possible) in the formulation, implementation, and operation of the system. This removes the condition that has been the greatest impediment in the past to the willingness of state and local jurisdictions to seek certification for their grievance systems.

Section 103(f) of S. 3 strengthens safeguards against and sanctions for false allegations of poverty by prisoners who seek to proceed in forma pauperis. Subsection (d) of 28 U.S.C. 1915 currently reads as follows: ''The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious.'' Section 103(f)(1) of S. 3 amends that subsection to read as follows: ''The court may request an attorney to represent any such person unable to employ counsel and shall at any time dismiss the case if the allegation of poverty is untrue, or if satisfied that the action fails to state a claim upon which relief may be granted or is frivolous or malicious even if partial filing fees have been imposed by the court.''

Section 103(f)(2) of S. 3 adds a new subsection (f) to 28 U.S.C. 1915 which states that an affidavit of indigency by a prisoner shall include a statement of all assets the prisoner possesses. The new subsection further directs the court to make inquiry of the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. This is a reasonable precaution. The new subsection concludes by stating that the court ''shall require full or partial payment of filing fees according to the prisoner's ability to pay.'' We would not understand this language as limiting the court's authority to require payment by the prisoner in installments, up to the full amount of filing fees and other applicable costs, where the prisoner lacks the means to make full payment at once.

B. S. 866

Section 2 in S. 866 amends the *in forma pauperis* statute, 28 U.S.C. 1915, in the following manner: (1) The authority to allow a suit without prepayment of fees—as opposed to costs—in subsection (a) is deleted. (2) A prisoner bringing a suit would have to submit a statement of his prison account balance for the preceding six months. (3) A prisoner would be liable in all cases to pay the full amount of a filing fee. An initial partial fee of 20% of the average monthly deposits to or average monthly balance in the prisoner's account would be required, and thereafter the prisoner would be required to make monthly payments of 20% of the preceding month's income credited to the account, with the agency having custody of the prisoner forwarding such payments whenever the amount in the account exceeds $10. However, a prisoner would not be barred from bringing any action because of inability to pay the initial partial fee. (4) If a judgment against a prisoner includes the payment of costs, the prisoner would be required to pay the full amount of costs ordered, in the same manner provided for the payment of filing fees by the amendments.

In essence, the point of these amendments is to ensure that prisoners will be fully liable for filing fees and costs in all cases, subject to the proviso that prisoners will not be barred from suing because of this liability if they are actually unable to pay. We support this reform in light of the frequency with which prisoners file frivolous and harassing suits, and the general absence of other disincentives to doing so.

However, the complicated standards and detailed numerical prescriptions in this section are not necessary to achieve this objective. It would be adequate to provide simply that prisoners are fully liable for fees and costs, that their applications must be accompanied by certified prison account information, and that funds from their accounts are to be forwarded periodically when the balance exceeds a specified amount (such as $10) until the liability is discharged. We would be pleased to work with the sponsors to refine this proposal.

In addition to these amendments relating to fees and costs, §2 of S. 866 strengthens 28 U.S.C. 1915(d) to provide that the court shall dismiss the case at any time if the allegation of poverty is untrue or if the action is frivolous or malicious or fails to state a claim. This is substantially the same as provisions included in §103 of S. 3 and title II of H.R. 667, which we support.

Section 3 of S. 866 essentially directs courts to review as promptly as possible suits by prisoners against governmental entities or their officers or employees, and to dismiss such suits if the complaint fails to state a claim or seeks monetary relief from an immune defendant. This is a desirable provision that could avoid some of the burden on states and local governments of responding to nonmeritorious prisoner suits.

Section 6 provides that a court may order revocation of good time credits for federal prisoners if (1) the court finds that the prisoner filed a malicious or harassing civil claim or testified falsely or otherwise knowingly presented false evidence or information to the court, or (2) the Attorney General determines that one of these circumstances has occurred and recommends revocation of good time credit to the court.

We support this reform in principle. Engaging in malicious and harassing litigation, and committing perjury or its equivalent, are common forms of misconduct by prisoners. Like other prisoner misconduct, this misconduct can appropriately be punished by denial of good time credits.

However, the procedures specified in section 6 are inconsistent with the normal approach to denial of good time credits under 18 U.S.C. 3624. Singling out one form of misconduct for discretionary judicial decisions concerning denial of good time credits—where all other decisions of this type are made by the Justice Department—would work against consistency in prison disciplinary policies, and would make it difficult or impossible to coordinate sanctions imposed for this type of misconduct with those imposed for other disciplinary violations by a prisoner.

We accordingly recommend that §6 of S. 866 be revised to provide that (1) a court may, and on motion of an adverse party shall, make a determination whether a circumstance specified in the section has occurred (i.e., a malicious or harassing claim or knowing falsehood), (2) the court's determination that such a circumstance occurred shall be forwarded to the Attorney General, and (3) on receipt of such a determination, the Attorney General shall have the authority to deny good time credits to the prisoner. We would be pleased to work with the sponsors to refine this proposal.

Section 7 of S. 866 strengthens the requirement of exhaustion of administrative remedies under CRIPA in prisoner suits. It is substantially the same as part of §103 of S. 3, which we support.[2]

C. The STOP Provisions

As noted above, we support the basic objective of the STOP proposal, including particularly the principle that population caps must be only a ''last resort'' measure. Responses to unconstitutional prison conditions must be designed and implemented in the manner that is most consistent with public safety. Incarcerated criminals should not enjoy opportunities for early release, and the system's general capacity to provide adequate detention and correctional space should not be impaired, where any feasible means exist for avoiding such a result.

It is not necessary that prisons be comfortable or pleasant; the normal distresses and hardships of incarceration are the just consequences of the offenders' own conduct. However, it is necessary to recognize that there is nevertheless a need for effective safeguards against inhuman conditions in prisons and other facilities. The constitutional provision enforced most frequently in prison cases is the Eighth Amendment's prohibition of cruel and unusual punishment. Among the conditions that have been found to violate the Eighth Amendment are excessive violence, whether inflicted by guards or by inmates under the supervision of indifferent guards, preventable rape, deliberate indifference to serious medical needs, and lack of sanitation that jeopardizes health. Prison crowding may also be a contributing element in a constitutional violation. For example, when the number of inmates at a prison becomes so large that sick inmates cannot be treated by a physician in a timely manner, or when crowded conditions lead to a breakdown in security and contribute to violence against inmates, the crowding can be addressed as a contributing cause of a constitutional violation. *See generally Wilson* v. *Seiter,* 501 U.S. 294 (1991); *Rhodes* v. *Chapman,* 452 U.S. 337 (1981).

[2] However, there is a typographic error in line 22 of page 8 of the bill. The words ''and exhausted'' in this line should be ''are exhausted.''

In considering reforms, it is essential to remember that inmates do suffer unconstitutional conditions of confinement, and ultimately must retain access to meaningful redress when such violations occur. While Congress may validly enact legislative directions and guidance concerning the nature and extent of prison conditions remedies. It must also take care to ensure that any measures adopted do not deprive prisoners of effective remedies for real constitutional wrongs.

With this much background, I will now turn to the specific provisions of the STOP legislation.

The STOP provisions of S. 400 and title III of H.R. 667—in proposed 18 U.S.C. 3626(a)—provide that prospective relief in prison conditions suits small extend no further than necessary to remove the conditions causing the deprivation of federal rights of individual plaintiffs, that such relief must be narrowly drawn and the least intrusive means of remedying the derivation, and that substantial weight must be given to any adverse impact on public safety or criminal justice system operations in determining intrusiveness. They further provide that relief reducing or limiting prison population is not allowed unless crowding is the primary cause of the deprivation of a federal right and no other relief will remedy that deprivation.

Proposed 18 U.S.C. 3626(b) in the STOP provisions provides that any prospective relief in a prison conditions action shall automatically terminate after two years (running from the time the federal right violation is found or enactment of the STOP legislation), and that such relief shall be immediately terminated if it was approved or granted in the absence of a judicial finding that prison conditions violated a federal right.

Proposed 18 U.S.C. 3626(c) in the STOP provisions requires prompt judicial decisions of motions to modify or terminate prospective relief in prison conditions suits, with automatic stays of such relief 30 days after a motion is filed under 18 U.S.C. 3626(b), and after 180 days in any other case.

Proposed 18 U.S.C. 3626(d) in the STOP provisions confers standing to oppose relief that reduces or limits prison population on any federal, state, of local official or unit of government whose jurisdiction or function includes the prosecution or custody of persons in a prison subject to such relief, or who otherwise may be affected by such relief.

Proposed 18 U.S.C. 3626(e) in the STOP provisions prohibits the use of masters in prison conditions suits in federal court, except for use of magistrates to make proposed findings concerning complicated factual issues. Proposed 18 U.S.C. 3626(f) in the STOP provisions imposes certain limitations on awards of attorney's fees in prison conditions suits under federal civil rights laws.

Finally, the STOP provisions provide that the new version of 18 U.S.C. 3626 shall apply to all relief regardless of whether it was originally granted or approved before, on, or after its enactment.

The bills leave unresolved certain interpretive questions. While the revised section contains some references to deprivation of federal rights, several parts of the section are not explicitly limited in this manner, and might be understood as limiting relief based on state law claims in prison conditions suits in state courts. The intent of the proposal, however, is more plausibly limited to setting standards for relief which is based on claimed violations of federal rights or imposed by federal court orders. If so, this point should be made clearly in relation to all parts of the proposal.

A second interpretive question is whether the proposed revision of 18 U.S.C. 3626 affects prison conditions suits in both federal and state court, or just suits in federal court. In contrast to the current version of 18 U.S.C. 3626, the proposed revision—except for the new provision restricting the use of masters—is not, by its terms, limited to federal court proceedings. Hence, most parts of the revision appear to be intended to apply to both federal and state court suits, and would probably be so construed by the courts. To avoid extensive litigation over an issue that goes to the basic scope of the proposal, this question should be clearly resolved one way or the other by the text of the proposal.

The analysis of constitutional issues raised by this proposal must be mindful of certain fundamental principles. Congress possesses significant authority over the remedies available in the lower federal courts, subject to the limitations of Article III, and can eliminate the jurisdiction of those courts altogether. In the latter circumstance, state courts (and the U.S. Supreme Court on review) would remain available to provide any necessary constitutional remedies excluded from the jurisdiction of the inferior federal courts. Congress also has authority to impose requirements that govern state courts when they exercise concurrent jurisdiction over federal claims, see Fielder v. Casey, 487 U.S. 131, 141 (1988), but if Congress purports to bar both federal and state courts from issuing remedies necessary to redress colorable constitutional violations, such legislation may violate due process. See, e.g., Webster v. Dob, 486 U.S. 592, 603 (1988); Bowen v. Michigan Academy of Family Physicians, 476 U.S. 667, 681 n.12 (1986); Bartlett v. Bowman, 816 F.2d 695, 703–07 (D.C. Cir. 1987). We therefore examine the proposal's various remedial restrictions from that perspective.

Proposed 18 U.S.C. 3626(a)(1) in the proposal goes further than the current statute in ensuring that any relief ordered is narrowly tailored. However, since it permits a court to order the ''relief . . . necessary to remove the conditions that are causing the deprivation of . . . Federal rights,'' this aspect of the proposal appears to be constitutionally unobjectionable, even if it constrains both state and federal courts.

Proposed 18 U.S.C. 3626(a)(2) bars relief that reduces or limits prison population unless crowding is the primary cause of the deprivation of a federal right and no other relief will remedy the deprivation. We strongly support the principle that measures limiting prison population should be the last resort in prison conditions remedies. Remedies must be carefully tailored so as to avoid or keep to an absolute minimum any resulting costs to public safety. Measures that result in the early release of incarcerated criminals, or impair the system's general capacity to provide adequate detention and correctional space, must be avoided when any other feasible means exist for remedying constitutional violations.

Certain features of the formulation of proposed 18 U.S.C. 3626(a)(2) however, raise constitutional concerns. In certain circumstances, prison overcrowding may result in a violation of the Eighth Amendment, see Rhodes v. Chapman, 452 U.S. 337 (1981). Hence, assuming that this provision constrains both state and federal courts, it would be exposed to constitutional challenge as precluding adequate remedy for a constitutional violation in certain circumstances. For example, severe safety hazards or lack of basic sanitation might be the primary cause of unconstitutional conditions in a facility, yet extreme overcrowding might be a substitute and independent, but secondary, cause of such conditions. Thus, this provision could foreclose any relief that reduces or limits prison population through a civil action in such a case, even if no other form of relief would rectify the unconstitutional condition of overcrowding.

This problem might be avoided through an interpretation of the notion of a covered ''civil action'' under the revised section as not including habeas corpus proceedings in state or federal court which are brought to obtain relief from unconstitutional conditions of confinement. See e.g., Preiser v. Rodriguez, 411 U.S. 475, 499 (1973). However, this depends on an uncertain construction of the proposed statute, and the proposal's objectives could be undermined if the extent of remedial authority depended on the form of the action (habeas proceedings vs. regular civil action). Since the relief available in habeas proceedings in this context could be limited to release from custody, reliance on such proceedings as an alternative could carry heavy costs in relation to this proposal's evident objective of limiting the release of prisoners as a remedy for unconstitutional prison conditions.

A more satisfactory and certain resolution of the problem would be to delete the requirement in proposed 18 U.S.C. 3626(a)(2) that crowding must be the primary cause of the deprivation of a federal right. This would avoid potential constitutional infirmity while preserving the requirement that prison caps and the like can only be used where no other remedy would work.

Proposed 18 U.S.C. 3626(b)—which automatically terminates prospective relief after two years, and provides for the immediate termination of prospective relief approved without a judicial finding of violation of a federal right—raises additional constitutional concerns. It is possible that prison conditions held unconstitutional by a court may persist for more than two years after the court has found the violation, and while the court order directing prospective relief is still outstanding. Hence, this provision might be challenged on constitutional grounds as foreclosing adequate judicial relief for a continuing constitutional violation.

However, we believe that this provision is constitutionally sustainable against such a challenge because it would not cut off all alternative forms of judicial relief, even if it applies both to state court and federal court suits. The possibility of construing the statute as not precluding relief through habeas corpus proceedings has been noted above (as has the possibility that habeas may provide only limited relief), More importantly, the section does not appear to foreclose an aggrieved prisoner from instituting a new and separate civil action based on constitutional violations that persisted after the automatic termination of the prior relief.

A more pointed constitutional concern arises from the potential application of the restrictions of proposed 18 U.S.C. 3626(b) to terminate uncompleted prospective relief ordered in judgments that became final prior to the legislation's enactment. The application of these restrictions to such relief raises constitutional concerns under the Supreme Court's recent decision in Plauty, Spendthrift Farm, Inc., 115 S.Ct. 1447 (1995). The Court held in that case that legislation which retroactively interferes with final judgments can constitute an unconstitutional encroachment on judicial authority. It is uncertain whether Plaut's holding applies with full force to the prospective, long-term relief that is involved in prison conditions cases. However, if the decision does fully apply in this context, the application of proposed 18 U.S.C. 3626(b) to orders in pre-enactment final judgments would raise serious constitutional problems.

While we believe that most features of that STOP proposal are constitutionally sustainable, at least in prospective effect, we find two aspects of the legislation to be particularly problematic for policy reasons.

First, the proposal apparently limits prospective relief to cases involving a judicial finding of a violation of a federal right. This could create a very substantial impediment to the settlement of prison conditions suits—even, if all interested parties are fully satisfied with the proposed resolution—because the defendants might effectively have to concede that they have caused or tolerated unconstitutional conditions in their facilities in order to secure judicial approval of the settlement. This would result in litigation that no one wants, if the defendants were unwilling to make such a damaging admission, and could require judicial resolution of matters that would otherwise be more promptly resolved by the parties in a mutually agreeable manner.

Second, we are concerned about the provision that would automatically terminate any prospective relief after two years. In some cases the unconstitutional conditions on which relief is premised will not be corrected within this timeframe, resulting in a need for further prison conditions litigation. The Justice Department and other plaintiffs, would have to refile cases in order to achieve the objectives of the original order, and defendants would have the burden of responding to these new suits. Both for reasons of judicial economy, and for the effective protection of constitutional rights, we should aim at the resolution of disputes without unnecessary litigation and periodic disruptions of ongoing remedial efforts. This point applies with particular force where the new litigation will revisit matters that have already been adjudicated and resolved in an earlier judgment.

Existing law, in 18 U.S.C. 3626(c), already requires that any order of consent decree seeking to remedy an Eighth Amendment violation be reopened at the behest of a defendant for recommended modification at a minimum of two year intervals. This provision could be strengthened to give eligible intervenors under the STOP proposal, including prosecutors, the same right to periodic reconsideration of prison conditions orders and consent decrees. This would be a more reasonable approach to guarding against the unnecessary continuation of orders than imposition of an unqualified, automatic time limit on all orders of this type.

Mr. HATFIELD. Mr. President, for the better part of an hour we have notified Members through the communication system that we are ready to go to third reading and finalize, first of all, the managers' package—for the better part of an hour. And I think it has now reached a reasonable period of time to bring this to a halt.

So I want to say that at 5:05—in 15 minutes—I will ask for the lifting of the quorum and the Chair will put the question. So that will mean we have waited for an hour and 10 minutes for anyone to exercise their parliamentary right. I think that is a fairly good test of knowing if anyone is interested in doing so. Then we will move to the third reading following the adoption of the managers' package.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

COMMON SENSE PRODUCT LIABILITY REFORM ACT

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the conference report on H.R. 956, the Common Sense Product Liability Reform Act.

The legislation is modest in its reach, but it includes long-overdue changes, and it pulls together common-sense reforms that command broad support in this Congress.

Nonetheless, President Clinton announced that he will veto the bill and if, indeed, he does veto this legislation, he will line up with the special interests—the trial lawyers—rather than the American people.

The President refused to buck the trial lawyers last year, also, and he vetoed securities litigation reform. His veto was overridden by a bipartisan vote. The senior Senator from Connecticut, Senator DODD, brought strong support from the other side of the aisle, and we overrode the veto. It was not a radical bill. It was a balanced bill, modest reform. But the trial lawyers handed him the veto pen, and, political considerations at the forefront, he signed on the dotted line to veto securities reform.

Likewise, the Product Liability Reform Act is not radical legislation, as Presidential campaign aides insist. It addresses some of the principal abuses—our efforts to pass an expansive bill failed—and it, too, has a broad base of support. Just look at the bipartisan leadership on this bill. But despite the consensus for the bill, President Clinton again will do the trial lawyers' bidding, and he insists that he will veto yet another reform measure.

The argument that this legislation goes too far just does not hold up. The conference report was hammered out with the 60 votes for cloture in mind. It is, by definition, a consensus bill. So, let the facts be clear, this veto is not about consumer protection—the trial lawyers are worried about changes to a legal racket that took them years to build—it is about political considerations in an election year.

So, despite all the White House rhetoric about wages and growth, the President will take a stand for growth, but it will not be for growth in jobs. No, it will be for continued growth in the frivolous lawsuits that swell court dockets and cost American jobs.

The American tort system is far and away the most expensive of any industrialized country. It cost $152 billion in 1994. This is equivalent to 2.2 percent of the gross domestic product. This has serious economic implications, and, in fact, it is estimated that the legal system keeps the growth of our gross domestic product approximately 10 percent below its potential.

We have heard a lot of discussion about economic growth, but I believe that a good legal reform bill is, in effect, a growth bill.

The costs of these baseless lawsuits are profound—lost jobs, good products withdrawn from the market, medical research discontinued, and limited economic growth—all because our tort system is far too expensive.

We do not have the votes for general legal reform in this Chamber. I wish we did. However, we do have the votes for limited product liability reform, and we now have a bill that addresses the principal abuses.

President Clinton will be forced to choose sides on this bill. I hope he will reconsider his announcement and line up with the American workers rather than the trial lawyers. This bill will reduce the costs of frivolous lawsuits—the cases that compel companies to settle rather than risk ruin in the hands of juries run amok—and it will boost capital investment in our factories. Consequently, this legislation will generate jobs—manufacturing jobs—and strengthen our industrial base. This is good economics, and, Mr. President, it is good for the working people of this country.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, for the better part of an hour we have notified Members through the communication system that we are ready to go to third reading and finalize, first of all, the managers' package—for the better part of an hour. And I think it has now reached a reasonable period of time to bring this to a halt.

So I want to say that at 5:05—in 15 minutes—I will ask for the lifting of the quorum and the Chair will put the question. So that will mean we have waited for an hour and 10 minutes for anyone to exercise their parliamentary right. I think that is a fairly good test of knowing if anyone is interested in doing so. Then we will move to the third reading following the adoption of the managers' package.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, may I proceed for 5 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, in response to my distinguished friend from North Carolina—and I know North Carolina very well—I would challenge the distinguished Senator to name the industry that refused to come to North Carolina, or to Tennessee, on account of product liability. Specifically, the State of North Carolina, as well as my State of South Carolina, has foreign industry galore. They talk about the international competition, and within that international competition we just located, with respect to investment Hoffman LaRoche from Switzerland, the finest medical-pharmaceutical facility that you could possibly imagine; with respect to the matter of photographic papers, Fuji has a beautiful new plant there; and we have Hitachi, a coil roller bearings, and we have over 40 industries from Japan and 100 from Germany. The distinguished Presiding

Officer has 98 Japanese plants in Tennessee. In my 35 years dealing with industry and bringing industry into South Carolina, they have yet to mention product liability.

Now, let us get to the trial lawyers. Bless them, because if there is a lazy crowd of bums, it is the corporate lawyers that sit downtown here and infest this particular democratic body with billable hours—billable hours. All they have to do is get up and see a Senator, and they send a bill. All they have to do is sit down and say something, and it is $200, $300, $400, or $500 an hour—the whole crowd up here in Washington. They have hardly ever tried a case in court.

Let us go right to the particular product liability cases. The American trial bar association—the American Bar Association—is opposed to this measure. The Senator from North Carolina should know that. The Association of State Legislators have opposed it. The Association of State Supreme Court Judges have opposed it. The attorneys general have come here and law professors from all around the country have come here to oppose it. The reason they have come is that this is the most dastardly measure you could possibly imagine.

Talk about balancing how they got together, why not apply this bill to the manufacturing? It is all applied to the injured parties who have difficulty getting a lawyer in the first instance. You have to have a chance to get in court, not just your day in court. But to get to court, you have to be willing to take on the expenses—not billable hours, but the risk of winning or losing. Under the contingency arrangement unless 12 jurors find in their behalf and the courts of appeal affirm that particular finding, you don't get paid. So it is not willy-nilly.

They mention a coffee case—they have anecdotal nonsense—the coffee case in New Mexico where the lady dropped the hot coffee. She got third-degree burns. She went to the hospital for an extended period of time. But the trial judge cut back on that particular award. They never mentioned that. We have a good judiciary there in the State of New Mexico.

So we can go into these cases. But to come here, as I heard one particular statement just earlier this afternoon, that the President of the United States was threatening a veto because he was bankrolled by the trial lawyers—I wish every one would look up and see the Senator who made that statement. He is an expert in bankrolling.

That is all I can say.

I yield the floor.

Mr. DOMENICI. Mr. President, I want to say to my friend, Senator HOLLINGS, that he mentioned New Mexico and the McDonald case. I do not know how this story will strike you, but about 10 days after that event—and the paper was full of the stories—I pulled into a McDonald's in downtown Albuquerque on my way to Santa Fe in the car. And we pulled up to the drive-in window to get coffee, and in the process talking to the nice lady working for McDonald's, we asked for the coffee. She had it ready. Just as we started to leave, I was sitting in the front seat with one of my staff men right here. We were looking at her, and she was smiling heavily—almost laughing. I said, ''What is the matter, ma'am?'' We had been talking about the case before. She said, ''Well, last night a truck came by here and the man in the driver's seat sitting right here close to me said, 'Don't bother with the cup. Just pour it in my lap.' '' [Laughter.]

Mr. CHAFEE. Mr. President, I ask that I might proceed for 3 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I want to take a moment of the Senate to discuss further the matter that the distinguished Senator from North Carolina brought up, namely, the product liability reform conference report.

I want to take a moment to discuss an important matter that today or tomorrow will come before the Senate: namely, the product liability reform conference report. I must say that I was sorely disappointed to read over the weekend that the President has issued a veto threat for this carefully balanced, carefully drafted, well-thought-out measure. I find it hard to believe the President's advisors could come up with a credible basis for objecting to this commonsense bill. I strongly urge the President to reconsider.

SENATE HISTORY RE PRODUCT LIABILITY REFORM

This issue is not a new one, and this legislation was not drafted in a hasty or casual manner. Indeed, it is the cumulation of more than a decade's worth of hard work. Let me outline the enormous time and energy that has been expended on behalf of this bill by its Senate sponsors:

I would like to just briefly outline what is going into this bill. No one can suggest that this is a will-o'-the-wisp piece of legislation that just suddenly came out of nowhere. In 1981, legislation was introduced similar to the bill that was finally approved and comes from the conference today or this week. It was introduced in 1981.

In the 97th Congress (1981–82), S. 2631 was introduced by Senator Kasten and others. It was reported by the Commerce Committee but never taken up by the Senate. In the 98th Congress (1983–84), Senators Kasten, Percy, and GORTON again introduced product liability legislation (S. 44), and again it was reported by Commerce. And again it saw no further action.

In the 99th Congress (1985–86), Senator Kasten introduced a revised version of his product liability reform proposal (S. 100). This bill was defeated on a tie vote in Committee. However, a host of freestanding amendments were considered during hearings. Eventually an original Committee bill (S. 2760) was sent to the floor, where the Senate voted overwhelmingly to consider it. Yet notwithstanding the strong votes, the bill was returned to the calendar and the Senate recessed for the year.

In every Congress we have worked on this particular piece of legislation.

In the 100th Congress (1987–88), Senators Kasten, PRESSLER, ROCKEFELLER, and Danforth, soldiering on, introduced two more revised bills (S. 666, S. 711), neither of which was taken up by the Committee or the Senate. In the 101st Congress (1989–90), ever hopeful, Senators Kasten, GORTON, PRESSLER, and ROCKEFELLER introduced their bill. S. 1400 won Committee approval, but was blocked from Senate consideration.

In the 102d Congress (1991–92), Senators Kasten and ROCKEFELLER led a bipartisan group in introducing S. 640. The bill was favorably reported, but was stalled for 7 months by liability reform opponents. To force floor action, S. 640 was offered as an amendment to the then-pending motor-voter bill. But cloture failed, and subsequently the amendment was sent to Judiciary for further hearings. However, proponents were able to win a commitment from the Democratic leader to bring the bill up later. That fall, the Senate witnessed an extraordinary effort by bill opponents to stymie the bill by forcing the Senate to hold three back-to-back cloture votes, each of which fell at least 2 votes short of the 60 needed. The end result? That bill also died.

How about the 103d Congress? Anything better? Not much. S. 687 was introduced in March 1993 with Senators ROCKEFELLER and GORTON again bravely leading the charge. After a hearing and the strongest committee vote yet, 16 to 4, the bill went to the floor, but again the opponents stopped its momentum with two cloture votes, and that killed the bill for the rest of the 103d.

Now we come to the 104th Congress, some 15 years after the first Kasten bill was presented. Prospects seemed pretty good. Supporters had gained new adherents on both sides of the aisle. Product liability and tort reform had caught the public's attention and support. The legislation in itself had plenty of time to ripen. After all, there had been countless hearings and enormous opportunity for public comment.

To their credit, the sponsors continued to take all legitimate concerns into account and came up with reasonable responses to those questions raised.

Will this be the year of product liability reform? Well, let us see. S. 565 was introduced in March 1995, a year ago, by Senators GORTON, ROCKEFELLER, PRESSLER, LIEBERMAN, and others, and a large bipartisan coalition. The bill was reported in April. The committee took up the bill in late April and began voting on amendments. A total of four cloture votes were held on or in relation to the bill, with the fourth vote in this grueling

procession being ultimately successful. On May 10, with bipartisan support, the bill as amended passed the Senate, 61–37. Now the conference report is finally before us. But now we learn that all this work is for naught—for notwithstanding the views of some of his advisors and the strong support of many Democrats, the President has decided to veto this bill.

Frankly, I believe this bill has seen more roadblocks in the last decade than practically any other bill we have seen. I venture to guess that product liability has been subject to more cloture votes than any other bill: two in 1986, three in 1992, two in 1993, and four in 1995.

Yet, it seemed we were close to beating that gridlock with this new Congress. The drafting of the bill was bipartisan from Day One. The White House was well aware of what was going on, watching closely as the Senate took up the bill and began adding amendments. Indeed, I understand from the key Republican and Democratic sponsors of the bill that it was the administration that, during the Senate debate in May, quite helpfully suggested the addition of the so-called additur provision to the final version of the Senate bill—the provision that helped the bill win final approval by that 61 to 37 margin.

THE VETO THREAT

What, then, happened to change the White House attitude? Did the bill change drastically in conference? The answer is no, hardly at all. It was clear to all that the House broader tort reform bill would not win administration approval. Therefore, to their credit, the conferees were careful to stick closely to the Senate version. The bill that we will vote on is virtually identical to the Senate-passed bill that won such strong approval.

What, then, has caused the President to issue the veto threat? I cannot believe he is personally opposed to a Federal liability law, for as Governor he sat on the National Governors' Association Committee that drafted the NGA's first resolution favoring Federal liability reform.

Here in my hand I have the letter to Senator DOLE stating the veto threat. The reasons for the veto are couched very carefully but do not stand up to close scrutiny. First, we are told the bill is an ''unwarranted intrusion on state authority''—yet in this case, the need for a uniform product liability law—not 50 separate laws—is so warranted that the NGA enthusiastically supports this measure. Second, we are told the bill would ''encourage wrongful conduct'' because it abolishes joint liability. But that deduction stretches credibility; moreover, joint and several liability remains for economic damages. Third, the letter accuses the bill of ''increas[ing] the incentive to engage in the egregious misconduct of knowingly manufacturing and selling defective products—a charge that makes no sense—and then goes on to say that the additur provision the White House itself asked for does not take care of this alleged problem.

None of these three statements accurately represents what this balanced, bipartisan conference report would do. They are merely there for cover, to allow a veto to proceed. That is a shame. I am inclined to agree with my friend from West Virginia, who has worked so long on this bill, when he says with regret that ''special interest and obvious, raw political considerations in the White House are overriding sound and reasonable policy judgment.''

THE 1996 PRODUCT LIABILITY CONFERENCE REPORT

No question about it—this bill is sound and reasonable policy. Let me quickly outline its key provisions.

Under this bill, those who sell, not make, products are liable only if they did not exercise reasonable care; if they offered their own warranty and it was not met; or they engaged in intentional wrongdoing. In other words, they cannot be caught up in a liability suit if they did not do anything wrong. That concept should sound familiar to most Americans.

Also under this bill, if the injured person was under the influence of drugs or alcohol, and that condition was more than 50 percent responsible for the event that led to their injury, the defendant cannot be held liable. Likewise, if the plaintiff misused or altered the product—in violation of instructions or warnings to the contrary, or in violation of just plain common sense—damages must be reduced accordingly. Of all the provisions in the bill, it seems to me these are the ones that are the most obvious. Why on earth should we blame the manufacturer for behavior that everyone knows would place the product user at risk? Is that fair? No. Does that not contradict our notion of an individual's personal responsibility? Yes. This provision goes a long way toward ensuring that freely undertaken behavioral choices are taken into account in liability actions.

Regarding time limits, the bill allows injured persons to file an action up to 2 years after the date they discovered, or should have discovered, the harm and its cause. For durable goods, actions may be filed up to 15 years after the initial delivery of the product. These provisions are fair, providing some certainty with regard to liability exposure while at the same time protecting consumers who have been harmed.

Either party may offer to proceed to voluntary nonbinding alternative dispute resolution. Simple, but again, it makes sense.

Now the most controversial element of the bill: punitive damages. Let me remind my colleagues that these damages are separate and apart from compensatory damages. Compensatory damages are meant to make the injured party whole, by compensating him or her for economic and noneconomic losses; punitives are meant to deter and punish. Under the bill, punitives may be awarded if a ''clear and convincing evidence'' standard proving ''conscious, flagrant indifference to the right of safety of others'' is met. The amount awarded may not exceed two times the amount awarded for compensatory loss, or $250,000—whichever is greater—for small business, whichever is less. At the suggestion of the White House, a further provision was included: If the court finds the award to be insufficient, it may order additional damages.

Again, this compromise seems to make sense. It sets a framework for punitive damage awards in which the level of punitives is tied to the harm actually suffered by the plaintiff, with the ability to go beyond the cap in truly egregious cases. This compromise cap helps resolve the problem of arbitrary and inconsistent awards, while at the same time ensuring that punitive awards will not be meaningless inproportion to the injury suffered. The Washington Post calls this approach an important first step that creates some order and boundaries.

Each of the provisions I have outlined make eminent sense. Each helps provide certainly in an area where there now, notoriously, is none. That is why Senator ROCKEFELLER says the conference report ''delivers fair and reasonable legal reform'' that ''would make American industry and American workers more competitive.'' He is absolutely right.

I pay my compliments to Senators ROCKEFELLER, GORTON, PRESSLER, and LIEBERMAN. They have worked tirelessly for years and years to enact meaningful and fair product liability reform. They have done this Nation a great service. And their work should not be for naught.

Thus, I urge the President to reconsider his position, and join the bipartisan coalition supporting this critically important legislation. I urge him to disregard the powerful political constituencies aligned against this bill. I urge him to sign this bill into law.

Mr. President, I hope that this laborious marathon that we have been engaged in to see product liability reform passed here will finally succeed.

I thank the Chair.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. HATFIELD. I thank the Senator from Rhode Island for yielding the floor at this time.

Mr. President, we are about ready to wind this up. I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3554 TO AMENDMENT NO. 3553

Mr. MCCAIN. Mr. President, I have an amendment in the form of a second-degree amendment at the desk. I call it up at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3554.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 5 of Amdt. No. 3553, strike ''shall'' and insert ''may.''

Mr. MCCAIN. Mr. President, this is not earmarked, and I oppose it. I urge action on the amendment.

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 3554.

The amendment (No. 3554) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3553

The PRESIDING OFFICER. The question now occurs on the underlying managers' amendment.

The amendment (No. 3553) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the managers' package was adopted.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3523

Mr. WARNER. Mr. President, last week I offered an amendment to prohibit funding under the District of Columbia provisions of H.R. 3019 which would directly or indirectly serve to implement or enforce the lifting of taxicab reciprocity agreements—which have served well for 50 years—in the Washington, DC, Metropolitan area.

I am pleased to report that that legislative action, at this time, is no longer necessary, and that my Amendment No. 3523 therefore has been withdrawn.

As a result of direct negotiations which have been taking place between myself and officials of the District government, I today received an assurance that hopefully will be in the best interests of northern Virginia consumers and businesses. The longstanding taxicab reciprocity agreements between the District, Virginia, and Maryland have been preserved for a period of 90 days, during which time there will be an opportunity for continued negotiations.

It had been my grave concern, and that of my constituents, that the February 6 decision of the D.C. Taxicab Commission to unilaterally terminate reciprocity agreements of nearly 50 years standing would have been highly disruptive to local commerce and transportation services in Metropolitan Washington. We must approach all forms of transportation among Virginia, the District, and Maryland as regional. Metrorail is a prime example.

Working with my northern Virginia colleague, Congressman TOM DAVIS, and our valued constituents, Charles King of Arlington Red Top Cab, Robert Werth of Alexandria Yellow Cab, and Bob Woods of Alexandria Diamond Cab, we have secured from the District government a firm commitment that the status-quo in taxicab reciprocity will be preserved for 90 days.

Furthermore, during this time period, the District has pledged to work with its partners in the Metropolitan Washington Council of Governments [COG] to pursue an equitable and fair new reciprocity agreement to replace the one of 50 years.

Assuming this can be done, this is a far more preferable and reasonable process that either unilateral action by one party —the District, or by Congressional action at this time.

The possibility of taxicab reciprocity termination has been a serious issue for my constituents in northern Virginia. Taxicab services in Arlington and Alexandria estimate that at least 10 percent of their business is conducted under the nearly 50-year-old taxicab reciprocity agreement.

On the other side of the issue, I understand that District taxi services have complaints that suburban companies may not be complying with the letter of the reciprocity agreement. Those issues also need to be addressed. We should not, ''however, throw the baby out with the bath water.''

In closing, I would just like to add a few words about the countless visitors we have each year coming to the Metropolitan Washington region. They expect and deserve public transportation services of the highest quality and safety.

Furthermore, I believe the District is taking the correct steps in modernizing their fare systems with meters, as in other major American cities. As a part of modernization, however, it is essential that reciprocal taxicab agreements be maintained.

I welcome the news that the District government will preserve the current taxicab reciprocity agreement for 3 months while this matter is considered among the members of the Metropolitan Washington Council of Governments.

I thank all of my colleagues for their kind cooperation in this matter.

AMENDMENT NO. 3494

Mr. MCCAIN. Mr. President, I rise to express my concern with Amendment No. 3494 which was accepted on March 14 after it was offered by my friend from Idaho, Senator CRAIG. Amendment No. 3494 earmarks, from Legal Services Corporation funds, a payment of $250,000 to an Idaho family, Leeland and Karla Swenson, for attorneys fees and expenses they encountered when their adoption of a Lakota Sioux Indian child ran afoul of the requirements of the Indian Child Welfare Act.

First, let me say, I understand the difficulty the Swenson family had with that case, and I understand why Senator CRAIG wants to try to help them. But I oppose this kind of earmark of funds for the private relief of certain individuals because it bestows Federal funds without any legislative record, without any reliable accounting of costs, and without any reasonable factual inquiry.

My colleagues should note that the Idaho State courts twice refused to award the Swensons their attorneys fees and expenses in this case. In their sworn affidavit filed with the court seeking fees and expenses, the Swenson attorneys sought $103,000, not the $250,000 provided by Amendment No. 3494. The $103,000 figure was based on an hourly rate of $150. Even the $103,000 figure is a mystery, as it is based on an hourly rate that is nearly double the hourly rate these same lawyers sought from the court 2 years earlier in the same case.

I don't know the Idaho courts' reasons for denying these attorneys' claims for fees and expenses, but I know the U.S. Senate has absolutely no reasons on the record for awarding $250,000 in fees and expenses to these attorneys. We don't know what they did. We don't know what is a reasonable hourly fee. And we don't know how much the lawyers have already received in payment.

News accounts report that a local group raised, through a benefit auction, $60,000 to help pay the lawyer fees and expenses. The same accounts report that the lawyers have agreed to reduce their fees to the amounts raised.

Much has also been made of the fact that the Swenson family auctioned off their dairy farm equipment in order to pay back money they borrowed to pay legal expenses. But it appears that passion may have exaggerated some of the story told about this case. Rather than being forced to sell their family farm, the Swenson family held a public auction earlier this month to sell off farm equipment and animals they had used in their dairy operations. Leeland Swenson continues, with his father, to own and operate their family farm and maintain a substantial cattle and crop operation. The Senate has been told the Swenson family is bankrupt, but there has been no evidence offered that they have filed for bankruptcy.

Now, Mr. President, let me be clear. I respect the motivation behind the effort made by my friend from Idaho, Senator CRAIG, even as I believe it to be a seriously misguided earmark of Federal funds without reliable justification and documentation.

I do not seek to debate or examine the facts of the Indian child welfare case that gave rise to this amendment. That case took 6 years to resolve.

Mr. President, my point is that the earmark in this amendment appears to be without sound basis in fact. The earmark is actually a private relief bill in

the nature of an appropriations amendment, but it has escaped even the minimal scrutiny the Senate gives to private relief bills. There are more than 45 private relief bills pending before the Senate today. No private relief bills have been passed in the 104th Congress. So I must ask the Senator from Idaho, Senator CRAIG, why has this matter been leapfrogged in front of all the others? And with neither a committee referral nor review to ensure against undue enrichment?

Mr. President, I do not think this earmark for lawyers fees can or should survive careful scrutiny. I understand from discussions with Senator CRAIG that in his view the language of the amendment does not provide for an automatic payment of $250,000 but instead would pay up to $250,000 of actual legal fees and expenses related to this case.

If our colleagues on the conference committee do not recede to the House and drop this amendment altogether, Mr. President, at the very least I would hope that they clarify the bill language so that it only pays ''up to'' $250,000 for actual legal fees and expenses. Even then I am unclear who will decide what is actual. I ask unanimous consent that a copy of an article from the Idaho Press-Tribune dated February 23, 1996 as well as a copy of an Associated Press article dated March 15, 1996 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rapid City Journal, Mar. 15, 1996]

SENATE VOTES TO PAY COUPLE'S LEGAL BILLS

WASHINGTON.—The government may pay the legal bills of a couple who lost their farm after a child custody battle with the Oglala Sioux Tribe of South Dakota.

The Senate voted Thursday to take $250,000 from the Legal Services Corp.'s 1996 budget to pay the couple's legal fees and expenses. Legal Services subsidizes the Idaho legal-aid agency that represented the South Dakota tribe in the long court fight.

The Leland Swenson family of Nampa, Idaho, adopted the half-Indian child six years ago, but the tribe sued to gain custody under a law that allows tribes to intervene in adoption cases involving their members. The Idaho Supreme Court ruled against the tribe, and the adoption was made final last month.

The family sold its dairy farm and equipment to pay back family, friends and banks who lent them money during the legal wrangling.

''They bankrupted this family in an attempt to gain custody of this child,'' said Sen. Larry Craig, R-Idaho. ''The family won, the happy ending is here, but the family is bankrupt.''

Attorneys with Idaho Legal Aid Services which represented the tribe, said the couple's legal fees did not exceed $100,000, and half of that was paid from a benefit auction last year. Aides to Craig said the $250,000 figure was based on a request by Nampa's mayor.

''The tribe was eligible for our services. We get special money to handle that kind of case,'' said Ernesto Sanchez, executive director of Idaho Legal Aid. ''We were doing what we thought we were supposed to be doing.''

The Swenson family's compensation was added to a $160 billion bill that would fund government operations through next September. The House does not have a similar provision in its version of the bill.

The custody battle stems from passage of the 1978 Indian Child Welfare Act, which was intended to stop the practice of taking Indian children off reservations. At one time, an estimated one in four Indian children was adopted or living in an institution or foster care.

Adoption advocates complain that tribes are now using the law to seize children with Indian ancestry or connections to a reservation.

Casey Swenson was born in September 1989 to a non-Indian mother and a father who is an Oglala Sioux. Court records said the father refused to acknowledge the child, wouldn't pay support and has taken no part in the court proceedings.

The tribe should have used its own attorneys on the case, Craig said.

''I think this sends a clear message to legal services. Do what the law intended you to do,'' Craig said.

[From the Idaho Press—Tribune, Feb. 23, 1996]

CASEY'S ADOPTION FINAL TODAY

(By Sherry Squires)

NAMPA.—A six-year drama ended today for the Swenson family and the community that supported them.

The last of countless court hearings was held at 11 a.m., finalizing Leland and Karla Swenson's adoption of Casey.

The biological son of an Oglala Sioux Indian father and white mother, Casey has lived with adoptive parents Leland and Karla Swenson since the day after he was born.

The Oglala Sioux tribe fought for six years to move Casey to the Pine Ridge, S.D., reservation where they live.

But the Idaho Supreme Court ruled in September that Casey would stay with his adoptive parents. The court required one final hearing to take place. Casey's birth mother had to appear today before a judge and voice her wishes to allow the Swensons to adopt Casey.

The Oglala Sioux Tribe did not appeal the Supreme Court ruling. The deadline passed in late * * *

''The worth of Casey's life is infinite to us.'' Leland said ''We'd do it all again in a second. I wouldn't even hesitate.''

The Swensons are parents to Casey and 15-month-old Anna Lee, whom they also adopted.

It was from Casey that the Swensons said they mustered the courage to adopt again.

''We had prayed about it a lot,'' Karla said. ''We believed Casey would stay with us no matter what.''

''He's always talked about a little sister.'' Leland said. ''We decided he shouldn't suffer because of the circumstances. Now he talks about a little brother, and it scares me to death.''

Before Anna Lee's adoption when the Swensons were still searching for a daughter to adopt, they were notified that a little girl had been found for them.

''It was very, very scary with Anna Lee,'' Karla said.

But her adoption went smoothly and has been finalized.

Adoption rules generally only allow a family to adopt two children. But occasionally some families can adopt another.

The Swensons said they'd adopt again if given the chance.

With Casey's ordeal behind them, the Swensons plan to continue to tell their story and work for reform of the Indian Child Welfare Act at the national level.

''We would like to see adoption laws changed so they protect the child and not the birth parents,'' Karla said.

They have tried to settle into the security that Casey will stay with them. The worry still comes and goes. But it never goes away.

''After living with that so long, it becomes a way of life,'' Leland said. ''I don't know how long it will take. We're always going to be looking over our shoulder.''

But Casey has stopped looking over his, his parents said.

They believe that is partly because he was diagnosed with Attention Deficit Disorder two years ago.

The disorder often causes learning and behavioral problems in children. The children are at or above average intelligence levels, but they sometimes suffer from poor memory, a short attention span and hyperactivity.

The Swensons believe the disorder has sheltered Casey. Without it his understanding may have been better, and his fears greater.

He was hesitant to go to court again today.

''He doesn't understand why he has to do this again,'' Karla said. ''I told him he has to adopt us this time.''

The Swensons' personal future is somewhat uncertain.

The family will sell all of their dairy equipment at a March 2 auction. They sold their dairy Thursday.

Leland will help farm 61 acres that his father owns, but he also is looking for full-time work.

They hope the proceeds from the auction will allow them to pay the nearly $100,000 they owe to family, friends and banks who helped them pay legal expenses.

The Swensons' attorney, Carolyn Steele of Boise, accepted what they could pay as full payment for legal fees.

''She has been a very good friend to us,'' Leland said. ''I want people to know there are some good attorneys out there. In our eyes, she's the best. She wasn't in it for the money. She sacrificed a lot to see this to the end.''

and the Swensons said they owe a lot to a community that supported them to the end.

An auction held a year ago also helped them pay legal expenses.

''A lot of the people who came couldn't afford to be there,'' Leland said. ''With all the garbage that goes in this world, there's a lot of wonderful people still out there.''

''Everyone in Nampa was in our boat with us,'' Karla said, ''and probably Caldwell, too.''

The couple said this week they now just want a new start.

''We appreciate that people are concerned,'' Leland said. ''But I want them to know we're going to be OK.''

''We feel like we still have the most important thing of all. That's our precious family. That's all that matters.''

Mrs. BOXER. Mr. President, I will vote against H.R. 3019, the omnibus consolidated rescissions and appropriations bill, because it fails on three counts.

First, it provides too little for critical national priorities, especially education, anticrime efforts, and environmental protection;

Second, it contains dangerous and misguided legislative riders that threaten our Nation's environment and natural resources; and

Third, it undermines a woman's constitutional right to choose.

UNDERFUNDED PRIORITIES

Though some funds for environmental protection were added to the Republican bill by the Bond-Mikulski

amendment, the bill still leaves critical programs underfunded and unable to meet current needs. Superfund cleanup grants, Safe Drinking Water revolving fund, EPA enforcement budget, Clean Water revolving fund, national parks budget—all will receive less than they need, and most will receive less in real terms in fiscal year 1996 than in 1995, even though needs are greater.

For education, again, even though funds were restored to the bill by the Specter-Harkin amendment, the bill still underfunds critical elementary and secondary education programs, including Title 1 for disadvantaged children, Goals 2000, School-to-Work, Safe and Drug-Free Schools, and Summer Jobs for Youth.

The bill proposes to dismantle one of the most effective crimefighting programs Congress has ever passed—the Community Policing Services [COPS] Program, established in the 1994 Violent Crime Control Act. This program was intended to give local police forces 100,000 more cops on the beat. Thirty-three thousand has already been dispatched in local communities across the Nation, and the crime rate in many cities is dropping. H.R. 3019 would replace COPS with a block grant program that force police officers on the beat to compete with other law enforcement programs for limited funds.

DANGEROUS RIDERS

H.R. 3019 contains many legislative riders that President Clinton has vetoed in the past because they threaten the environment and our Nation's precious natural resources.

These provisions would: Block new drinking water standards; prohibit the EPA from enforcing a rule on reformulated gasoline; boost logging levels in the Tongass National Forest; prohibit the listing of new endangered species; undermine wetland protection; prohibit the issuance of new energy efficiency standards; limit the listing of new Superfund sites, and prohibit the Park Service from fully implementing the California Desert Protection Act regarding the Mojave Preserve.

The bill also urges the EPA to consider relaxing toxic air standards for certain industries, exempt some industries from requirements for risk management plans, including measures to prevent accidental chemical releases, and urges EPA not to expand the Toxic Release Inventory, one of the Nation's most successful nonregulatory public disclosure initiatives ensuring community right-to-know about toxic chemicals that are being released into the environment.

LIMITS RIGHT TO CHOOSE

The bill continues the ban on the use of the District of Columbia's locally raised funds to pay for abortions. There are over 3,000 counties and 19,000 cities in the United States, but only the District of Columbia is forced to submit to such a cruel and arbitrary restriction.

The bill also allows ob-gyn residency programs that lose their accreditation because of failure to provide abortion training to continue to receive Federal funds as if they were accredited. This is a terrible setback for women's health. This amendment invites protesters to target hospitals and pressure them to stop training doctors in procedures that may be vitally needed to preserve the health of female patients.

Mrs. MURRAY. Mr. President, I rise today to announce my support for the Senate version of H.R. 3019. I do not make this decision lightly, nor do I make it with great comfort. Rather, I support this bill grudgingly, because it is in the interest of my constituents that Congress act to complete the fiscal year 1996 budget process.

I am voting in favor of H.R. 3019 for three reasons. First, this bill contains critical Federal relief for flood victims throughout the Northwest; the Government has made promises to help people recover from the damage, and this bill delivers on that promise. Second, the Senate took the high road on funding for several critical programs emphasizing education and the Environmental Protection Agency; I'm pleased we were able to add back $2.7 billion in funding for the Department of Education, and over $700 million for EPA. Third, and finally, this Congress has an obligation to complete the people's business. We are now 6 months into fiscal year 1996, and five appropriations bills remain unsigned. By passing this bill today, we are finally able to move the process forward and see a light at the end of the tunnel on this year's budget.

I want to be very clear about the merits of this bill: while it was improved in some respects during the floor debate, it still has many serious problems. The salvage timber provisions are inadequate. The restrictive language on reproductive freedom is a serious problem for women everywhere. The funding levels in general do not even meet fiscal year 1995 levels for critical programs in education and other important children's services. There are riders on fisheries management, tribal appropriations, and endangered species protection that need serious revisions. And, the Columbia Basin ecosystem assessment language, while favorably revised since the original Interior appropriations bill, still must be strengthened.

In short, Mr. President, there are still a lot of problems with this bill, and I will continue to attempt to address them as we move in a conference committee. And I want to make one thing very clear right now: I cannot support a conference report that moves significantly toward the House bill. That version of H.R. 3019 is laden with riders that I believe are not remotely in the public interest. In addition, the funding levels on education and other programs are simply unacceptable. If the conference report does not substantially reflect the Senate numbers on education, it will be very difficult for me to support it.

In general, Mr. President, I have been deeply concerned about the way this Congress has handled the fiscal year 1996 appropriations process. We have seen too many riders, too many cuts poorly thought out, and too much delay in finishing what should have been done last September. This hasn't been the case with every bill to be sure. But the remaining five bills have been the unfortunate victims of too much politicking. I sincerely hope we can come together in conference, smooth out the remaining rough edges, and finish the people's business.

Mr. KEMPTHORNE. Mr. President, I rise today in support of the omnibus appropriations bill. I particularly want to thank Senators HATFIELD and GORTON for their leadership and assistance in meeting the critical needs of Idaho as a result of the floods. I have always voted on the Senate floor to provide disaster aid to other regions of the country in times of need. I now ask my colleagues to support the Northwest victims with the same compassion. This is not a partisan issue, quite the contrary. This is an American issue of restoring hope to families who, in some cases, have lost everything they own.

FLOOD DAMAGE TO INFRASTRUCTURE

I was in my home State of Idaho during this disaster and I saw first hand its devastation. I witnessed flood-damaged homes and churches which had to be destroyed before they were swept downstream and knocked out bridges. I watched entire communities having their heart and soul taken from them. I know other communities in the Northwest suffered through the same anguish that Idaho towns did.

In fact, for some communities the pain and suffering continues. The town of St. Maries, home to 2,500, still has portions of the city under more than 2 feet of water. The Federal Emergency Management Agency estimates that the Idaho clean up costs will exceed $13 million but complete surveys cannot be done until the water recedes. These folks need help, and they need it now. That is why we must pass this appropriation bill as quickly as possible. I want to thank Senator HATFIELD for including my language in this bill that will provide funding to rebuild damaged levees in towns like St. Maries.

We must repair and strengthen these levees now so we can avoid similar flood events when the spring run-off occurs.

ENVIRONMENTAL DAMAGE AS A RESULT OF THE FLOODS

It will be some time before we know the full impact from the disaster. Although we all rightfully focus on the human impacts of acts of nature, there is another impact which deserves our attention. The environmental impact of the flood should not be neglected.

In our region, we have spent considerable sums to preserve anadromous fish, protect wildlife and conserve the environment. The natural resources of the Pacific Northwest are our heritage and legacy to future generations. If

that investment has been compromised by the floods we should be informed of it at the earliest opportunity.

While streams remain swollen and snowpack continues on the ground, we may not have had sufficient opportunity to discern the true impact of the environmental damage of the flood. The several Federal agencies charged with assessing the damage need our support. That's why I have asked to have included in this emergency supplemental appropriations bill the inclusion of $1,600,000 for the Fish and Wildlife Service to implement fish and wildlife restoration activities and provide technical assistance to FEMA, NCRS, the Corps of Engineers and the States.

I want to thank Senators HATFIELD and GORTON for agreeing with me that wise stewardship of the land is our responsibility. Although the majority of the funds available under this bill are for human needs as a result of the flood the environmental needs are not being ignored.

SAFE DRINKING WATER ACT—REVOLVING LOAN FUND

This budget bill contains the second critical element of our effort to reauthorize and improve the Safe Drinking Water Act.

Last November, the Senate unanimously passed legislation to overhaul the Federal Safe Drinking Water Act. That legislation included authorization, for the first time, of a State revolving loan fund for drinking water infrastructure. Today, by voting to support this budget, we will effectively set aside up to $900 million in 1996 to make that State revolving loan fund a reality. If the Safe Drinking Water Act is reauthorized before June 1 of this year, these funds will be available to States and local drinking water systems to construct or upgrade their treatment and water distribution systems.

States and local governments have a significant responsibility under the Safe Drinking Water Act to provide safe and affordable drinking water every day. This revolving loan fund will help communities, particularly small and rural communities, across the country meet this responsibility.

HORNOCKER INSTITUTE

Among other things, this omnibus budget bill includes approximately $500 million in funding for the Fish and Wildlife Service for fiscal year 1996. Of this amount, almost $35 million has been appropriated for recovery activities under the Endangered Species Act. In conducting these very important activities, I strongly urge the Fish and Wildlife Service to fund two ongoing research projects on gray wolves that are being conducted by the Hornocker Wildlife Research Institute at the University of Idaho.

As part of its recovery effort for the endangered gray wolf, the Fish and Wildlife Service has been artificially introducing gray wolves into Yellowstone National Park in Montana, Wyoming, and portions of central Idaho. Early studies, however, have shown that introducing the gray wolves is having an impact on the existing mountain lion population. The studies indicate that the wolf and the mountain lion are direct competitors, with the wolf emerging as the dominant predator, jeopardizing the mountain lion young and forcing the mountain lion into areas occupied by humans. This is obviously an issue of significant concern for the citizens of Idaho, Montana and Wyoming, whose lives and livelihoods may be threatened by displaced mountain lions.

The Hornocker Institute has been doing research on the interaction between the gray wolf and the mountain lion for the past several years and has been cited as the world authority on mountain lions. The Institute's early research on mountain lions played a critical role in shaping the policy on how mountain lions should be managed in the West. To continue its important research that will guide future policy on the management of the gray wolf and mountain lion populations, the Hornocker Institute needs $300,000 annually over the next 5 years. The Senate Appropriations Committee recognized the value of the institute's efforts and urged the Fish and Wildlife Service to support the institute's research.

I am disappointed that the bill does not earmark funds specifically for this important research, but it is my strong hope that the Fish and Wildlife Service will be guided by the Appropriations Committee's recommendations and provide much-needed funds for the Hornocker Institute to continue its research efforts.

TIMBER SALVAGE

I also joined my colleagues in support of wise, balanced management of our national forests. The issue at stake—managing for healthy, productive forests. The Murray amendment would have eliminated the one tool that is working; the one tool that is helping Idaho's economy and Idaho's environment recover from devastating fires which burned nearly 589,000 acres—919 square miles—of forest land in Idaho 2 years ago. That's a charred area that would cover three-fourths of the entire State of Rhode Island.

This amendment would leave that dead and dying timber to rot —adding fuel to future devastating fires and denying Idaho's struggling rural communities from accessing those resources.

Have we come to a point where it is no longer politically correct to harvest a tree? Gifford Pinchot, the father of the Forest Service and advisor to the creator of our National Park and Forest System, Teddy Roosevelt, was adamant that our Federal forests not be ''preserves'', but ''reserves'' managed for the best good of the public. He specifically viewed timber harvest as a central part of forest management.

A century of fire suppression activities has left our Nation's forests primed for massive, catastrophic fires. It is not a question of if, but when, our forests will burn again. And unsalvaged, unthinned burned areas are one of the tinderboxes we can point to. We have so many tall, dry, match sticks covering the hillsides, waiting for another lightning strike. Without restoration, those trees will burn again, and without replanted cover, these watersheds are vulnerable to massive soil erosion.

This amendment would have been a huge setback in this Congress' attempt, and the need to correct Federal timber policy. At some point we have to decide if we are going to let the folks we hired to manage our forests do their job. I supported the salvage provision last year because it did exactly that—it brought management decisions back to the local level, and gave local managers the flexibility to meet federal environmental policy goals within the timeframe dictated by emergency salvage conditions.

ENDANGERED SPECIES ACT.

As chairman of the Drinking Water, Fisheries and Wildlife subcommittee I have held a number of field hearings as well as hearings here in the Nation's Capital to look at the current Endangered Species Act and to identify ways to improve the act.

It is clear, from the testimony we gathered, that the Endangered Species Act has not accomplished what Congress intended when it was written more than 20 years ago. And, it's clear that it is possible to achieve better results for species by improving the ESA.

The Endangered Species Act needs to be carefully reviewed, debated, and rewritten so that it accomplishes its fundamental purpose—to conserve species. We can't wait any longer.

The original reasons for the moratorium remain valid. Until the Endangered Species Act is reformed to accomplish what it was intended to do, there is no reason to add more species to it.

Last month, the President was in Idaho addressing the needs of flood victims in the northern part of my State. And during the course of his visit we had a good discussion about the need to reform the Endangered Species Act. Working off of the cooperation between Federal, State and local governments who were working together to help flood victims, the President acknowledged that we need to establish the same sort of partnership to reform the Endangered Species Act.

I want to take this opportunity to complement Senator REID, the ranking member of our Subcommittee on Fisheries and Wildlife, who has not only acknowledged the need to work together to reform the Endangered Species Act, but has committed the time to make that reform happen. Working together, we may find a solution to the problems of the act by restoring the promise of the act. But others need to participate in true bipartisan discussions if they are serious about reform; they need to come to the table.

I want to move forward this year with the kind of a bipartisan bill that will incorporate the very real changes that everyone agrees are needed. Until then it only seems appropriate that the time-out represented by the moratorium is the best way to encourage everyone to stay at the table.

Perhaps the administration agrees. The moratorium was not in force during certain periods between continuing resolutions during 1995. The Secretary announced that he was not going to rush through various listing packages or critical habitat designations during that time. Instead, he honored the intent of the moratorium. Why honor the intent of the moratorium when it did not apply, and now seek to overturn it during an emergency bill?

There is an emergency in America concerning the Endangered Species Act. And from the view of my State, that need must be addressed by reform, not just adding more species to the list. If there is an emergency with regards to a particular species as a result of this moratorium, let's address that, but let's not simply bring more species under the umbrella of this Act, which is not recovering species in the first place.

It is evident to me that if we are to move forward to a safer, cleaner, healthier future, we have to change the way Washington regulates laws like the Endangered Species Act. States and communities must be allowed, even encouraged, to take a greater role in environmental regulations and oversight. After all, who knows better about what each community needs, a local leader or someone hundreds of miles away in Washington, DC?

There are national environmental standards that must be set in the Endangered Species Act, and the Federal Government must make that determination, but Federal resources must be targeted and allocated more effectively, and that's why we must have a greater involvement by State and local officials.

The improvements we need in Washington go beyond State and local involvement. We need to plan for the future of our children, not just for today. Science and technology are constantly changing and improving. In the case of the Endangered Species Act, the Federal Government hasn't kept up with these improvements, and old regulations have become outdated and don't do the best job they can. That is why I want to reform the Endangered Species Act.

In the meantime, Mr. President, I think the moratorium on listings is the best tool we have to ensure that we continue to work toward meaningful reform of the Endangered Species Act.

THE CLEAN WATER ACT 404(C) RIDER

Mr. CHAFEE. Mr. President, I would like to make a few remarks about one of the environmental provisions in the Hatfield Substitute to H.R. 3019, the Omnibus Appropriations and Rescissions Bill. I applaud the good work of Chairman HATFIELD and Ranking Member BYRD and the other members of the Appropriations Committee in negotiating this comprehensive measure.

I am deeply troubled, however, by the committee's decision to maintain the rider that bars the Environmental Protection Agency [EPA] from using any of its fiscal year 1996 funds to implement Section 404(c) of the Clean Water Act.

Since its enactment in 1972, Section 404 of the Clean Water Act has played a key role in the progress we have made toward achieving the act's purpose, which is ''to maintain the chemical, physical, and biological integrity of the Nation's waters.'' Section 404(c) authorizes the EPA to prohibit the disposal of dredged or fill material into the Nation's waters, including wetlands, if doing so would harm especially significant resources.

The proponents of this rider assert that it would eliminate the confusion caused by the ''duplicative roles'' of EPA and the Army Corps of Engineers in administering the Federal Wetlands Program. The problem with this logic is that, every year, the Corps of Engineers itself sponsors water resource projects that require the disposal of hundreds of millions of cubic yards of dredge and fill material. Without EPA oversight, the corps would have no check on the environmental impact of these activities. In other words if the rider barring EPA oversight is enacted into law, who oversees what the corps does?

Moreover, the Corps of Engineers supports EPA's role in the veto of its wetlands permit decisions. I would like to quote a statement made in a letter written March 13, 1996, by Secretary of the Army Togo West and EPA Administrator Carol Browner. The letter states: ''We want to emphasize unequivocally that Section 404(c) provides an essential link between our agencies in the implementation of the Section 404 program and contributes significantly to our effective protection of the Nation's human health and environment.'' I could not have said it better myself. Mr. President, I ask unanimous consent that this letter written by Administrator Browner and Secretary West be printed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. Mr. President, EPA has used its 404(c) authority only 12 times in the history of the Clean Water Act. It is hardly a waste of Government resources. Moreover, these veto actions, although infrequent, have protected almost 7,300 acres of wetlands, including some of the Nation's most valuable wetlands in the Florida Everglades and near the lower Platte River.

Aside from the fact that this rider is unsound policy, the appropriations process simply is not the proper context to raise complex legislative issues such as EPA's role in the Federal Wetlands Program. Rather, the appropriate forum for such issues is the ongoing Clean Water reauthorization process. The Committee on Environment and Public Works has held four hearings on section 404, and two additional hearings on Clean Water Act reauthorization. In fact, the committee conducted a hearing on wetlands mitigation banking just last week. I have been working closely with Senator FAIRCLOTH, who is chairman of the relevant subcommittee, and other members of the committee, to achieve meaningful reform of the Federal Wetland Program.

Although I do not intend to offer an amendment, I strongly urge the committee members to drop this controversial provision from the appropriations bill. The removal of this provision would increase the likelihood that Congress will bring closure to the precarious budgetary situation for fiscal year 1996.

EXHIBIT 1

U.S. ENVIRONMENTAL PROTECTION AGENCY, DEPARTMENT OF THE ARMY,

March 13, 1996.

Mr. ROBERT G. SZABO,
The National Wetlands Coalition,
Washington, DC.

DEAR MR. SZABO: We read with concern your January 22, 1996, letter to President Clinton regarding his veto of the Environmental Protection Agency's (EPA) appropriations bill, in part, because the bill would have eliminated EPA's authority under Clean Water Section 404(c). As the President's veto message stated, this provision would preclude EPA ''from exercising its authority under the Clean Water Act to prevent wetlands losses.'' As the national program managers of the agencies charged with the administration of Clean Water Act Section 404, we appreciate the opportunity to respond to your letter on behalf of the Clinton Administration.

We want to emphasize unequivocally that Section 404(c) provides an essential link between our agencies in the implementation of the Section 404 program and contributes significantly to our capacity to ensure effective protection for the nation's human health and environment. The decision of Congress in 1972 to establish joint administration of Section 404 explicitly recognized the advantages of integrating the Corps of Engineers historical role in protecting the navigational integrity of the nation's waters with EPA's responsibilities for achieving the broader environmental goals of the Clean Water Act. The value and logic in this decision remains valid today and we, therefore, cannot agree with the conclusion in your letter that EPA's authority under Section 404(c) is not justified.

We strongly agree that implementation of Section 404(c), like the Section 404 program itself, requires a balance to ensure protection of the nation's waters while effectively guarding the property rights of private landowners. The President's Wetlands Plan, developed in 1993, reflects this commitment to make the Section 404 program more fair and flexible. Many of the constructive improvements identified in the President's Wetlands Plan have been implemented, and tangible benefits of these actions are being realized. Moreover, information collected as part of a recent Corps of Engineers survey of their field offices demonstrates that EPA's Section 404(c) authority is not being used in a threatening way, but constructively and with considerable discretion. Repeal of

EPA's Section 404(c) authority is unnecessary to make the Section 404 program more fair and flexible but would invariably erode its ability to protect human health and the environment. We cannot support this result.

The organizations which, with you, signed the letter to the President represent an important cross section of the nation, and we appreciate your vital interest in this issue. Our challenge is to identify improvements to the Section 404 program that address legitimate concerns without weakening its environmental protections. We look forward to working with you as we meet that challenge.

Sincerely,

CAROL M. BROWNER,
Administrator.
TOGO D. WEST, Jr.,
Secretary of the Army.

Ms. MOSELEY-BRAUN. Mr. President, I want to say at the outset that hostage taking and legislative blackmail is not the way to arrive at the kind of solution we need to solve our budget problems. While I support this bill's goal to provide funding for Federal agencies for the remainder of the fiscal year 1996, I have several reservations about the bill.

I am a firm believer in tightening our Government's fiscal policies and will continue to work toward that end. I am convinced that restoring budget discipline will help ensure that our children—and future generations—will be able to achieve the American Dream. We have an obligation to our children to protect their future opportunities, and not to leave them a legacy of debt. But this bill does not do enough to protect American priorities.

The President reviewed this bill and found that it was lacking $8 billion in funding for priorities important to Americans: Efforts to protect the environment, efforts to help educate our children, and initiatives that will help keep our streets safe. Rather than working in a bipartisan manner toward a bill that the President could sign, however, this bill is designed to draw a Presidential veto. This is unfair to our students who want to pursue educational opportunities. It is unfair to all Americans who want to live in a clean and safe community. It is unfair to Government employees who want to work. And it is unfair to all others who depend upon the appropriations contained in these bills.

We made some strides to add funding for education by passing a bipartisan amendment last week, but we have not done enough to restore funding for other priorities such as environmental cleanup. The bill does contain a contingency fund of $4.8 billion in additional funding, but this is an illusory commitment because it is contingent on budget agreements not yet achieved. The contingency plan holds American priorities hostage.

The American people sent us a clear message after the last budget crisis—do not risk shutting the Federal Government by promoting an extreme set of budget priorities. This message has apparently gone unheard. The continuing resolution before us does not seek balance, or moderation, and it does not even pretend to resolve the important appropriation issues we should have resolved months ago.

Of the 13 appropriations bills Congress is supposed to pass every year, 5 are still undone even though the fiscal year is almost half over. Several Federal Cabinet departments have been without fully approved spending plans. Now, nearly 6 months into the fiscal year, we are considering a 10th extension.

The activities financed by these uncompleted appropriation bills, or what is also known as domestic discretionary spending, is but a part of Federal spending that underlie our Government's budget problems. Domestic discretionary spending has not grown as a percentage of the GDP since 1969, the last time we had a balanced budget. Domestic discretionary spending comprises only one-sixth of the $1.5 trillion Federal budget, and it is steadily declining.

Every dollar of Federal spending must be examined to see what can be done better, and what we no longer need to do. However, the budget cannot be balanced simply by whacking away at domestic discretionary spending. To suggest to the American people that by cutting discretionary spending we will achieve budgetary integrity is to perpetuate a fraud.

The budget proposed by the majority party calls for $349 billion in savings from discretionary spending, but that comes from a portion of the budget that constitutes only 18 percent of the overall Federal budget—the part of spending that is not growing and the part of the budget that funds education and police and basic services we all count on. This part of the budget is not the major source of our deficit problem. We need to focus our savings on those areas of the budget that don't conflict with our priorities and values.

How we bring back fiscal discipline makes a real difference. If we care about our children, if we care about our future, if we care about our Nation and ensuring an opportunity for every American to achieve the American Dream, we cannot abandon our commitment to education, access to health care, and to creating economic opportunity.

Mr. President, we need to move to a balanced budget. And we need to do it in a way that does not sacrifice the long-term goals of the American people to achieve illusory short-term cuts. We need a budget that restores fiscal discipline to the Federal Government. We need a budget based on the realities facing Americans. Most importantly, we need a budget for our future.

As this bill makes disproportionate cuts in programs important to the American people, I will vote against this bill. I urge my colleagues to work together to develop the kind of overall permanent budget agreement that the American people want and deserve.

Mr. BIDEN. Mr. President, I am sorry that I cannot vote for this appropriations bill today. We must move quickly to resolve the issues that still remain from last year's prolonged, confrontational, and, in the end, fruitless budget debates. But this bill will not advance that cause.

This bill, despite the best efforts of the distinguished leaders of the Appropriations Committee, still falls short. I am heartened that a majority of the Senate was moved to approve more adequate funding for our Nation's educational system. There is certainly no higher priority for us than preparing our country's young people for the future.

But that is not the only priority our country has, Mr. President, nor is it our only responsibility here in Congress. And, I am sorry to say, I find that this bill does not fulfill those responsibilities.

Our attempts to provide more support for the infrastructure investments we need for cleaner air and water were an inadequate step in the right direction. And we failed to meet our responsibility to maintain our country's hard-won superiority in high-technology research and development.

It is surely a false economy if we claim that we must sacrifice clean air and clean water, that we must roll back the progress we have made in advanced technologies, to balance the budget.

That is simply not the case. Amendments that provided more adequate support for those key national priorities at the same time specified the savings from other parts of the budget needed to neutralize their impact on the deficit.

Mr. President, we could have met those responsibilities and still kept within the tight spending limits set by this bill. But we chose not to, Mr. President. And if the Senate bill falls short, Mr. President, the version of this legislation passed by the House, I fear is even worse.

But, Mr. President, I must oppose this omnibus appropriations bill for one overriding reason—this bill slashes the effort to add 100,000 more police to our Nation's streets. This is the single-most-important crime-fighting initiative the Federal Government has undertaken in decades and I will not be party to any effort to go back on our word to add 100,000 police officers to the streets and neighborhoods all across America.

I have spoken with the White House and the President agrees that the only course to take on the 100,000 cops program is unequivocal and unwavering support for adding 100,000 cops to our streets—all dedicated to community policing. This program is working—more than 33,000 police have already been funded.

What is more, the results of community policing speak for themselves—more cops mean less crime.

To cite just one specific example—look what has happened in New York City. More police devoted to community policing has proven to mean less

crime—in the first 6 months of 1995 compared to the first 6 months of 1994: murder is down by 30 percent; robbery is down by 22 percent; burglary is down by 18 percent; and car theft is down by 25 percent.

In the face of that success in fighting America's crime epidemic, it would be folly to go back on our commitment to adding 100,000 cops. ''If it ain't broke, don't fix it''—as a former President used to say.

That, unfortunately, is exactly what the latest continuing resolution proposes to do—instead of fully funding the President's request for the 100,000 cops program, this latest proposal would slash the 1996 request for the cops program to $975 million—about one-half the $1.9 billion request.

Not only is the 100,000 cops program subject to extreme cuts—but the latest continuing resolution also takes nearly $813 million that was supposed to go to the 100,000 cops program to fund a so-called law enforcement block grant program.

What is wrong with this approach?

First, this so-called law enforcement block grant is written so broadly that the money could be spent on everything from prosecutors to probation officers to traffic lights or parking meters—and not a single new cop.

Second, this block grant has never been authorized by the Senate. So, let's be clear on what is being done here. What this continuing resolution does is take a crime bill that has been passed only by the House, whose funds have been authorized only by the House, whose block grant idea has already been rejected by the Senate, and incorporate it into an appropriations bill so it is passed and funded—all in one fell swoop.

Mr. President, if we are going to legislate by fiat like this, then we might as well do away with committees, with hearings, with subcommittee markups, with full committee markups, and with careful consideration of authorizing legislation. We could simply do all the Senate's business on appropriations bills or continuing resolutions.

I, for one, happen to believe that's a terrible way to proceed and I believe that's reason enough to oppose this bill.

If the Republicans want to change the crime bill, they have the right to try—but let's do it the right way and then let's vote on it. Wiping out major pieces of the most significant anti-crime legislation ever passed by the Congress on an appropriations bill makes a mockery of our Senate process. The importance of the programs we are considering, not to mention the perception of our institution, demands better.

Thank you, Mr. President.

VOTE ON AMENDMENT NO. 3466, AS AMENDED

The PRESIDING OFFICER. The question now is on agreeing to the substitute amendment, as amended.

The amendment (No. 3466), as amended, was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the substitute was adopted. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oregon.

ORDER OF PROCEDURE

Mr. HATFIELD. Mr. President, I ask unanimous consent that following the passage of H.R. 3019, the Senate proceed to vote passage of the small business regulation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—79

Abraham	Exon	McConnell
Akaka	Feinstein	Mikulski
Baucus	Ford	Moynihan
Bennett	Frist	Murkowski
Bingaman	Glenn	Murray
Bond	Gorton	Nunn
Bradley	Graham	Pell
Breaux	Gregg	Pressler
Bryan	Harkin	Pryor
Bumpers	Hatch	Reid
Burns	Hatfield	Robb
Byrd	Heflin	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inouye	Santorum
Coats	Jeffords	Sarbanes
Cochran	Johnston	Shelby
Cohen	Kassebaum	Simon
Conrad	Kempthorne	Simpson
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kohl	Stevens
Daschle	Leahy	Thompson
DeWine	Levin	Thurmond
Dodd	Lieberman	Wellstone
Dole	Lott	Wyden
Domenici	Lugar	
Dorgan	Mack	

NAYS—21

Ashcroft	Grams	Lautenberg
Biden	Grassley	McCain
Boxer	Helms	Moseley-Braun
Brown	Hollings	Nickles
Faircloth	Inhofe	Smith
Feingold	Kerry	Thomas
Gramm	Kyl	Warner

So the bill (H.R. 3019), as amended, was passed.

(The text of the bill was not available for printing. It will appear in the RECORD of March 20, 1996.)

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

The Senate will please come to order so the Senator from Oregon may proceed.

Mr. HATFIELD. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. ABRAHAM) appointed Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. MACK, Mr. BURNS, Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KERREY of Nebraska, Mr. KOHL, Mrs. MURRAY, conferees on the part of the Senate.

Mr. HATFIELD. Mr. President, I would like to take a very brief moment to acknowledge the input of many people to make this possible. I need not, Mr. President, indicate further this has been a very difficult and intricate package to craft; and this could not have happened without the cooperation of Senator BYRD, the ranking member, and the ranking members of our committee, as well as our own Republican members. I want to commend particularly the leadership that has been so important in getting us to this particular point. I hope that all of you will say your prayers, and include the Appropriations Committee, as it now goes to conference with the House of Representatives.

SMALL BUSINESS REGULATORY FAIRNESS ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 942.

The assistant legislative clerk read as follows:

A bill (S. 942) to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. BINGAMAN. Mr. President, I intend to support the small business regulatory fairness bill, S. 942, as modified by the managers' amendment.

This bill is a testament to the good work that occurred at the White House Conference on Small Business organized here in Washington last June. This national conference was the final step in a grassroots public discourse about small business needs and concerns that involved more than 21,000 small business people participating in 59 State conferences across the country. Starting with more than 3,000 issue recommendations at the State level, regional groups shaved the list to a set of 293 concerns. And finally, the White House Conference focused on 60 specific recommendations that might substantially improve the environment for the growth and success of small business activity.

I think that the work of the White House Conference has given us a good roadmap of items to debate and discuss which directly impact our Nation's economic health. One of the major concerns of small business owners today is simply complying with Federal regulations, being able to understand the regulations—which are often extraordinarily complex, and not falling subject to arbitrary enforcement and penalties. It is important that our Government be accountable to those it governs and must avoid arbitrary and ad hoc enforcement.

Mr. President, this legislation requires that Federal agencies produce small entity-compliance guides that outline in simple, understandable language what is required from small businesses. This is a commonsense adjustment in which both Federal regulators and small firms win. Furthermore, this act creates five-person regional citizen small business review boards in each of the 10 Government regions covered by the Small Business Administration. This measure gives small business a voice at the table when Federal guidelines are discussed, and this is as it should be.

Also central to this act is the creation of more cooperative and less punitive regulatory environment between agencies and small business that is less threatening and more solution-oriented than we have achieved in the past. And equally important are provisions in this legislation making Federal regulators more accountable for enforcement actions by providing small businesses a meaningful opportunity for redress of excessive or arbitrary enforcement activities.

As our Nation's larger firms continue a process of downsizing, restructuring, and outsourcing, our small business sector will continue to grow rapidly and will continue to be the major jobs generator for the country. It is crucial that the Federal Government do what it can to help small businesses thrive in a regulatory environment that is well defined and user friendly rather than to suffer because of uncertainty and unclear codes.

I am frequently visited by small business people and groups from my own State of New Mexico and am very much pleased by their attention to the debates that occur in Washington about legislation that might impact them and their companies. These firms typically don't have a staff section designed to study the tax implications of everything we do here in this Chamber; nor do they have the time and personnel to devote to close monitoring of our legislative activities. But still, tens of thousands of small business people in the Nation do invest time and become personally involved with the legislative process and have committed themselves to improving the interaction between Government and the small business sector.

I would like to mention one example from New Mexico, a person who demonstrates well a combination of entrepreneurial excellence, community concern and strong civic involvement. Ioana McNamara, the president and founder of an Albuquerque-based small business called Wall-Write, was one of those who participated from New Mexico in the White House Conference on Small Business. I want to publicly commend her for getting involved and working on these issues. She and others from the New Mexico small business delegation, including another small business person—Diane Denish—who served as the delegation chair for the White House Conference—have done a great deal to make sure that small firms in New Mexico do their part to achieve a more productive relationship between Government and business.

Clearly, people like Ioana McNamara and Diane Denish have more than enough to do in growing their businesses without paying attention to whether this Chamber is about to do something that harms or helps their businesses—but they have decided to do what they can to help implement the measures decided on at the White House Conference. I think our Nation should express its gratitude to these people and the thousands of others who participate in the making of good policy.

Mr. KERRY. Mr. President, the Small Business Regulatory Enforcement Fairness Act, represents an opportunity to change not only the regulatory burden on small business, but more importantly, to begin to change the way all Federal agencies, including the Internal Revenue Service [IRS], deal with small business. I am pleased to be a cosponsor of the bill.

In far too many cases, the Federal Government has acted as the judge, jury, and executioner for small businesses. Testimony before the Small Business Committee indicated many small businesses fear agencies like the IRS will levy huge fines on them for failure to comply with minor rules and regulations—of which they may be entirely ignorant. The Federal Government must become a partner in the growth and development of small businesses, not an adversary.

While not perfect, this legislation includes a number of provisions which will ease regulatory burdens and give small businesses some recourse when Federal bureaucrats are over zealous in the exercise of their power.

The bill requires agencies to publish in plain English a guide to assist small business in complying with regulations. Federal regulations are often too difficult for anyone to understand, let alone a small businessperson who is trying to run his or her business. It will also allow Small Business Development Centers to offer assistance to small businesses in complying with Federal regulations.

The bill would also establish an ombudsman to help small businesses get fair and legal treatment from the Government if they have been treated unfairly. The ombudsman would also assist small businesses in recovering legal fees as a result of unfair Government actions.

Under the bill, Federal agencies would be required to waive civil penalties for first violations by small businesses that do not constitute a serious threat to public health, safety, or the environment.

The bill provides that small business representatives are to be consulted in Federal agency rulemaking decisions that would have a significant impact on small businesses so that small business interests would be considered at the outset in the development of regulations.

While these reforms will not end the difficulties many small businesses face in complying with Federal regulations, they should help ease the burden. I hope this legislation will mark the beginning of a new era of better relations between Government and small business. The Federal Government should be working in partnership with small businesses—not at cross-purposes with them.

I am proud to support this legislation and would like to thank the chairman of the Small Business Committee, Senator BOND, and the ranking member Senator BUMPERS along with their staffs for their effort in producing this legislation.

Mrs. MURRAY. Mr. President, I would like to take this opportunity to commend Senator BOND for his leadership on small business issues, and lend my support to the Small Business Regulatory Fairness Act, which will lessen regulatory burdens imposed on small businesses by Federal agencies.

Mr. President, I have talked with many small business owners in my home State and one thing they all tell me is how difficult and costly it has become to comply with many of the Federal regulations imposed upon the. Among other things, this legislation will require agencies to publish materials in plain language to help small businesses comply with regulations.

The bill will also enhance the small business communities' voice with the Small Business Administration by providing them a role in determining future regulations.

When I was growing up, my father ran a small business in Bothell, WA. I know the time and energy small business people put into their companies. And, throughout my term, I have worked to reform a Government that continues to hamper small business owners.

I was a cosponsor of the S-Corporation Reform Act of 1993, and returned as a cosponsor of S. 758 last year, which would remove obsolete provisions from the tax code, making it easier for small businesses to raise capital. I cosponsored the Family Health Insurance Protection Act which would provide health insurance market reform for small businesses and families. And, on the first full day of this Congress, I introduced the American Family Business Preservation Act which would reduce the rate of estate tax imposed on a family owned business, encouraging families to keep their businesses intact. And, as many of my colleagues will remember, last Congress, we fixed a problem that has been plaguing small businesses that wanted to refinance their SBA 503 loans. Now, many small businesses in Washington State and across the country will be able to refinance their 503 loans.

Mr. President, I strongly believe Government cannot solve every problem in this country, but it can foster a healthy economic environment in which all businesses may prosper. I encourage each of my colleagues to support S. 942. The Small Business Regulatory Fairness Act continues our work by reducing redtape and making it easier for our small businesses to comply with often burdensome Federal regulations. I believe this is the type of reform our small businesses want and deserve.

Mr. GLENN. Mr. President, I support the managers' amendment to S. 942, the Small Business Regulatory Enforcement Fairness Act. I have been a long supporter of regulatory reform, and I believe this legislation provides significant regulatory relief to small businesses, small governments, and other small entities.

I congratulate the managers of this bill—Senator BOND, chairman of the Small Business Committee, and Senator BUMPERS, Ranking Democrat on the committee—for their efforts to craft a workable bill. I know they have consulted frequently with other members, the small business community, and the administration to address concerns and improve the legislation. In the midst of contentious debate about other regulatory reform issues, Senator BOND and Senator BUMPERS have put together a regulatory reform bill that will provide significant relief to small business. This legislation should get broad bipartisan support in both the Senate and House, and I am sure will soon be signed into law.

The purposes of this legislation are important and I support them. Some of the details, however, still concern me. For example, the bill provides for judicial review of Regulatory Flexibility Act decisions. This will put needed teeth into the Reg Flex Act and ensure that agencies prepare required regulatory impact analyses and pay more attention to the special impact of their rules on small business and other small entities, such as local governments. I am concerned, however, that these judicial review provisions may be overly broad and will lead to unnecessary litigation. Only time will tell whether my concern is well founded. At this point, I am prepared to give the new provisions the benefit of some doubt.

The bill also establishes a small business ombudsman process to help improve cooperation between regulatory agencies and regulated businesses. I support this idea. But, I am concerned that the implementation process, with its Small Business Fairness Boards, will end up creating a one-sided record of complaints that will distort the broad public mission of our agencies. Our agencies should not be viewed as the enemy when they carry out the laws passed by the people's representatives in Congress. I am happy, at least, that in the final version of the bill before us, the Ombudsman will focus on general agency enforcement activity and not attempt to evaluate or rate the performance of individual agency personnel.

Finally, the legislation creates small business review panels to ensure that small business perspectives are fully considered by agencies during rulemaking. Again, I support the important purpose of ensuring that agencies hear the voices of the little guys who do not always get through the maze of agency process and the larger more organized commenters. It is, however, important to ensure that this opportunity for comment does not create a precedent of giving special leverage to one segment of the public. I am, at least, heartened by the fact that review panel comments on an agency proposed rule will go into the public record, and that other interested parties will have an opportunity to respond to those comments before the agency makes its rulemaking decision. The fact that these review panels, as well as the Fairness Boards, will be subject to the Federal Advisory Committee Act [FACA] and the Government in the Sunshine Act will also help ensure that the new process will be open to the public.

On balance, I believe the managers' amendment should be supported. Again, I commend Senator BOND and Senator BUMPERS for their openness to concerns about the bill. Since we first saw drafts a week or so ago, significant changes and improvements have been made. Given these changes, I will vote for the managers amendment. But given my concerns, let me also say that these provisions should not be modified by the House. If they are made more onerous, then they should not be supported. If House action leads to changes in conference, then the Senate should say no to the conference report.

Let me clear up one fact about this legislation. A week and a half ago, on Thursday, March 7, 1996, Senator BOND stood here on the floor and described his hopes for a bipartisan agreement on this legislation. Our Minority Leader, Senator DASCHLE, agreed, saying that Democrats hoped to provide broad, if not unanimous, support for the final bill. Unfortunately, several other of our colleagues on the other side of the aisle then went on to accuse Democrats of delaying the bill and even of engaging in a filibuster. That could not be further from the truth.

When the Small Business Committee considered the legislation on Wednesday, March 6, there was general agreement that a managers' amendment would be prepared for the bill. On the 7th, as we waited to see the proposed amendment, we were surprised to hear our Republican colleagues accusing Democrats of holding up the bill. As it turned out, I did not see the final proposed manager's amendment for another whole week—March 14, an entire week after Thursday the 7th. Far from Democrats holding up this legislation, the fact is that the managers of this bill were not ready to bring the bill to the floor until at least a full week after we were being accused of delay. I am definitely not criticizing the managers. Their careful deliberations are to be commended. But certainly, other Senators should not be falsely accused of delaying the bill, when they were only waiting to see the results of those deliberations.

I hope I have set the record straight. There was never a filibuster on this legislation. We are happy there is finally an agreement on the managers' amendment. We are pleased that we now have it and can move forward and quickly pass the legislation.

I must say though, that once again, I am very disappointed in the rhetorical excesses of my colleagues on the other side of the aisle. Rather than even admit to working cooperatively, which is the case with the bipartisan bill before us, they tried to mislead the public about the status of this legislation. There certainly are enough instances where we honestly disagree, but here where we are working together, there is nothing to disagree about.

We need more of the bipartisan cooperation seen in the work of Senators BOND and BUMPERS and the other members of the Small Business Committee on this legislation. We need much less of partisan sniping.

THE NICKLES-REID CONGRESSIONAL REVIEW AMENDMENT

S. 942 comes to the floor with an agreement to consider one other amendment. This is the Nickles-Reid Congressional Review legislation and I urge my colleagues to support this

amendment. We passed this legislation last year, as a substitute to the Regulatory Moratorium. Congressional Review will create more work for us, but its expedited legislative veto process will ensure congressional accountability for Federal agency rules. I believe we need this process so that we can do our part for regulatory reform.

I have always been struck when in hearings, agency officials—under successive administrations—have pointed out that most agency regulations are strictly required by laws passed by Congress. The Nickles-Reid Congressional Review process will close the loop, so that when an agency issues a rule that some may oppose, we will have an opportunity to consider it in the context of the law and determine its reasonableness. This will not only help with accountability for individual rules, but will also help us identify specific statutory provisions that need revision. For these reasons, I am happy to support the Nickles-Reid amendment, and urge my colleagues to do so, as well.

CONCLUSION

With the combination of Small Business Regulatory Fairness and Congressional Review, we have significant bipartisan regulatory reform legislation. It should be passed by the House and be signed into law by the President.

Our job as legislators is to create laws that can work and can improve conditions in our country. Some have wanted to bull through and legislate now on a larger regulatory reform package. The truth is that there is simply too much there that is unsettled and about which too many do not agree. Now is the time to move legislation that can work and that will improve the regulatory process.

If in the quiet of committee we can return to the other regulatory reform issues of cost-benefit analysis and risk assessment, I think we should. But for now, let us work together on bills such as the legislation before us today that can pass and should pass.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 942, the Small Business Regulatory Enforcement Fairness Act.

Mr. President, America's small businesses badly need relief from excessive and unnecessary regulations. For years, those of us on the Small Business Committee have heard first hand from men and women in small businesses about the disproportionate regulatory burden they face. This burden was confirmed late last year in a report by the Small Business Administration's Office of Advocacy. Among other things, the report found that while small businesses employ 53 percent of the workforce, they bear 63 percent of total business regulatory costs.

The annual average cost of regulation, paperwork, and tax compliance for small businesses is about $5,000 per employee. By contrast, the comparable burden for businesses with over 500 workers is $3,400 per employee. This difference is significant. Big businesses already enjoy a competitive advantage over their smaller counterparts because of economies of scale. The Federal Government should not further disadvantage small businesses by imposing uniform regulations where tiering the regulation to account for business size would be just as effective.

Mr. President, the bill before us will give teeth to the Regulatory Flexibility Act Congress passed in 1980. That act, known as the Reg Flex Act, requires agencies to assess the effects of their proposed rules on small entities. Based on this assessment, agencies either have to conduct a regulatory flexibility analysis describing the impact on small entities, or they must certify that their rule will not have a significant economic impact on a substantial number of small entities.

Despite Congress's best intentions, agencies all too often have refused to comply with the Reg Flex Act. Unfortunately, there is nothing small businesses can do currently to enforce compliance. S. 942 would correct this problem. The bill would enable small businesses to take agencies to court to challenge an agency's determination. This should provide the spur necessary to ensure much greater compliance in the future.

In addition, this bill will require agencies to publish compliance guides for small businesses. In the study commissioned by SBA, 94 percent of small businesses said that it was unclear what they had to do to be in compliance with regulations. By providing easily understood explanations of regulations, agencies will ensure greater compliance. In addition, the bill directs agencies to provide informal guidance to small businesses about what is required of them to be in compliance.

In the case of regulations for which a regulatory flexibility analysis is required, small businesses will now be part of the rulemaking process by providing advice and recommendations to agencies before proposed and final rules are issued. To further help small businesses make their way through complicated regulations, the bill permits Small Business Development Centers and Manufacturing Technology Centers to offer regulatory compliance assistance and onsite assessments for small businesses.

Finally, Mr. President, S. 942 makes it easier, in certain instances, for small businesses to obtain attorneys fees from the government for claims upon which they prevail. I had serious concerns about the language we considered in the Small Business Committee mark up, which modified the so-called Equal Access to Justice Act. I did, however, have the assurance of the Senator from Missouri that our offices would change these provisions so that we would not be rewarding companies with attorneys fees when they violated the law, because, for example, they prevailed on 1 of 10 claims. I believe the new language contained in sections 301 and 302 accomplishes the goal of aiding firms that had to fight the Government on meritless suits, while protecting taxpayers from paying the attorneys fees for companies that have broken the law.

Mr. President, I want to commend Senator BOND and his staff for their willingness to adopt recommended changes suggested by myself and other members of the Small Business Committee. Most Members of this body express their desire to work with their colleagues across the aisle, but those expressions often prove hollow. In this case, however, I am happy to say that S. 942 is truly a bipartisan bill and I hope we will have many more such bills before the end of the 104th Congress.

I also want to acknowledge the work of the Clinton Administration's ''Reinventing Government'' initiative and last year's White House Conference on Small Business. Their efforts laid the groundwork for the legislation we are considering today.

Again, I want to thank Senator BOND and Small Business Committee staffers Keith Cole and John Ball for their assistance on this legislation, and I hope my colleagues will join me in supporting S. 942.

Mr. MURKOWSKI. Mr. President, no one more strongly supports the goals sought by the statutes and regulations of this country than I do.

I come from a beautiful State blessed with resources that I have worked to see used productively and conserved wisely, I myself enjoy the great outdoors in Alaska, along with my family, and intend to have these same kinds of experiences enjoyed by my children and grandchildren; I have been a banker, where it has been my privilege to see individuals succeed in small business; I have seen first hand how issues like safety and worker protection go hand in hand with ensuring that success, but there is no doubt that achieving better protection of human health and the environment can only happen if we regulate smarter.

Individuals and businesses, big and small, spend too much time trying to comply with too much paperwork, and too much regulation from too many Washington bureaucrats. For example: above-ground storage tanks must comply with five different regulations that each require a separate spill prevention plan; this means that a business with tanks files five different sets of plans—one to the State, and two each to the EPA and the Coast Guard.

If you buy a business that was once registered to produce pesticides, even if you don't produce pesticides, or never have, the EPA will still want you to send in annual production reports with zeros filled in. If you don't, you can be sued and potentially fined. For just one statute, the Resource Conservation and Recovery Act, EPA has issued 17,000 pages of regulations and proposed regulations. The volume I'm holding has over 1,000 pages, and on any one of

them is a place where a small business can get tripped up. By the way, this is one volume of title 40 of the Code of Federal Regulations. Title 40 deals with environmental protection. Title 40 has 20 more volumes like this one. And its only title 40.

The Code of Federal Regulations occupies an entire 4 foot by 8 foot bookcase in the Senate library. A copy of the code costs almost $1,000, and is updated four times a year. Even if a small business could afford to buy it, it would be impossible to read it all. Why do we want to force every business in America to have to keep a battery of lawyers around just to advise about the overwhelming details in the Code of Federal Regulations?

Now, usually when I describe these examples, I talk about Anchorage, AK. There, fish guts were added to the waste water to comply with regulations that require a certain amount of organic waste removed during sewage treatment. The water was too clean, so material had to be added just to comply with the requirement to get a minimum amount out. But I am happy to say that today I am no longer using that example. It seems that in response to a lawsuit, EPA announced its intention to lift some of the restrictions on sewage treatment plants such as the one in Anchorage.

EPA states, ''This change would provide the affected municipalities with additional flexibility and, in some cases, cost savings without compromising environmental quality.''

If we are to move forward to a safer, cleaner, healthier future, we have to change the way Washington regulates. This bill is a positive and helpful step in that direction. S. 942 will ensure small business participates in rulemaking. This in turn will mean that rules will take small business needs into consideration before a rule is enacted. The bill also allows judicial review of regulations for compliance with the 16-year-old Regulatory Flexibility Act. A court can now examine whether agencies considered adverse impacts to Small Business when it writes regulations, and determine if an agency acted in an arbitrary manner. Penalty waivers and reductions when appropriate for small business violations. Recovery of attorney's fees when small business is forced into defensive litigation due to enforcement excesses. Comprehensive regulatory reform will continue to be a high priority for this Senator.

As science and technology continue to change, we must have a Federal Government that can be responsive to such changes. We need to plan for the future, not just for today, and that means a regulatory system that can keep up with improvements.

Four fundamental changes to the regulatory system will have to occur to ensure those improvements in the future. First, we must do a thorough review of existing regulations in place, decide what we need and what we don't, and avoid adding any more we don't need; second, Washington should be required to disclose the expected cost of current and new regulations. The public has a right to know what laws and regulations cost; third, when making regulatory decisions, the Government should use best estimates and realistic assumptions rather than worst case scenarios advanced by extremists; and fourth, new regulations should be based on the most advanced and credible scientific knowledge available.

Common sense must be returned to regulating. I applaud Senators BOND and BUMPERS, and all those who worked to bring this bill to the floor. It is an important first step toward a safer, cleaner, healthier future.

Mr. WELLSTONE. Mr. President, I am very pleased to vote for this bill, reported out of the Small Business Committee 2 weeks ago. I commend Chairman BOND for moving the bill through our Committee, as well as ranking member Senator BUMPERS. I appreciate the cooperation of both in working with me and my staff to help ensure that the easing of regulatory burden accomplished in this bill, which is needed and desirable, will not turn back the clock in the area of necessary enforcement of worker safety laws and regulations when there are serious violations.

The bill provides judicial review for agency actions under the Regulatory Flexibility Act. And it would require agencies to publish plain-English compliance guides to help small business meet Government rules. I appreciate that the Senate is taking this positive, bipartisan action in the area of regulatory reform policy with a bill that came from the Small Business Committee. It brings badly needed common sense to regulations affecting small businesses.

Mr. President, it is important that we take this step on a key item from the agenda of the White House Conference on Small Business. Minnesota delegates to the White House Conference selected this issue, as expressed in a Conference resolution, to be one of their top priorities.

Mr. STEVENS. Mr. President, I strongly support the Small Business Regulatory Enforcement Fairness Act. Small business is overloaded with unreasonable regulatory requirements and paperwork. We are long overdue in doing something about it.

This legislation will help small business in several major ways. First, it provides judicial review of the Regulatory Flexibility Act to ensure that agencies will consider the impact of regulations on small businesses, small towns, and nonprofit organizations. The Reg-Flex Act has been on the books for 16 years, but agencies have ignored it because it could not be enforced in court. We are putting an end to that.

Second, this legislation helps small business to participate in the federal regulatory process. Third, it provides an opportunity for small businesses to redress arbitrary Government enforcement actions.

In addition, Senator NICKLES is adding a provision that would allow Congress to review new rules under expedited procedures. This can provide redress for both big and small business, governments, and non-profit organizations. If a rule is unreasonable, Congress will have an opportunity to veto it.

Mr. President, small business is critical to the well-being of the country and my home State of Alaska. Over 99 percent of Alaska's businesses are small businesses. They are the largest employers of minorities, women, and youth in Alaska. Alaska boasts a higher percentage of women-owned businesses than any State. Small business creates new jobs, is a crucial source of entrepreneurial innovation, and makes the American dream a reality for countless Americans.

Federal bureaucrats must be more sensitive to the devastating impact that overregulation can have on small business. About 65 percent of Alaska's small businesses employ one to four employees. Many could drown unless we stem the rising tide of federal rules and redtape. I congratulate Senator BOND and my other colleagues who have promoted this important legislation.

SMALL BUSINESS REVIEW PANELS

Mr. GLENN. Let me make sure I understand how the Small Business Review Panels will work. Before the publication of an initial regulatory flexibility analysis for a proposed EPA or OSHA rule, the SBA's Chief Counsel for Advocacy will gather information from individual representatives of small businesses, and other small entities such as small local governments, about the potential impacts of that proposed rule. That information will then be reviewed by a panel composed of members from EPA or OSHA, OIRA, and the Chief Counsel. The panel will then issue a report on those individual's comments, which will become part of the rulemaking record. Then, after the proposed rule is published in the Federal Register and prior to the publication of a final regulatory flexibility analysis, a second review panel will be convened, and again it will review and report on the individual's comments on the proposed rule. Is this correct?

Mr. BOND. Yes; my colleague from Ohio has correctly summarized the review panel process.

Mr. GLENN. Good, now let me ask specifically with regard to the first review panel stage: I trust that it is the managers' intention that the review panel's report and related information be placed in the rulemaking record in a timely fashion so that others interested in the proposed rule may have a reasonable opportunity to review that information and submit their own responses to it before the close of the agency's public comment period for the proposed rule.

Mr. BOND. That is correct.

Mr. GLENN. Good. Now, let me ask about the second review panel stage: I trust that it is the managers' intention that should an agency decide to significantly modify a proposed final rule on the basis of the panel's report, the agency will reopen the rulemaking proceeding and allow public comment on the newly revised proposal. I believe that not to do so would be to overturn longstanding rules against ex parte communications. Again, securing meaningful input from small entities should not be at the price of undercutting the openness and fairness of the Government decisionmaking process.

Mr. BOND. I agree. Again, our purpose is to ensure that the concerns of small business and other small entities be fully and carefully considered by rulemaking agencies. If those concerns lead to a significant change in the regulatory proposal, the process should be reopened to allow all interested parties to comment on the revised proposal.

Mr. GLENN. I thank the Senator very much. I am glad that we agree on how this process will work.

Mr. LEVIN. Mr. President, one of the proposals we have before us, in S. 942, would establish an ombudsman in the Small Business Administration. That ombudsman would solicit information from small businesses on Federal regulatory enforcement practices and develop ratings of how well Federal agencies perform their enforcement duties. The ombudsman would have the ability to refer serious cases of abuse to an agency's inspector general.

This provision seeks to make regulatory agencies more responsive to the concerns of small businesses by giving small businesses a means to respond to excessive regulatory enforcement practices. While I firmly believe that we need to fight for fundamental change in the culture of small business regulation, I question whether this proposal, although well-intentioned, is the best catalyst for affecting that change.

I am concerend that the Small Business Committee did not fully consider other options that could provide a better mechanism for giving small businesses a stronger voice within agencies that regulate them. In particular, I think the committee should have taken more time to look at the pros and cons of placing an ombudsman in each regulatory agency, rather than relying on a lone ombudsman in the Small Business Administration to cover all agencies.

I have been working for the past several months on a proposal that would create an office of ombudsman in each major regulatory agency. My proposal would give the ombudsman sufficient authority within the agency to solve problems and sufficient independence from the regulatory structure to act fairly. The ombudsman would be the mediator or honest broker between the small business who is the subject of an inspection or enforcement action and the regulatory apparatus of the agency.

This was a recommendation of the Administrative Conference of the United States back in 1990, and I think it makes a lot of sense. I believe that much of the dissatisfaction of the regulated public with regulations is not only with the content of some of our regulations but also with the way in which they are enforced. Agencies often view a small business as a violator to be caught instead of as a company to be helped into compliance. And that's a big difference. The ombudsman would be there to put a friendly place—the spirit of cooperation—on the implementation of regulatory requirements.

I agree that we need to give small businesses a stronger voice in the agencies that regulate them, but we must make sure that agencies are ready and willing to listen. That's why we need to consider placing an ombudsman in each agency and not just rely on a single ombudsman in the Small Business Administration.

Mr. President, I have a number of concerns about placing a lone ombudsman in the Small Business Administration.

First, the ombudsman would be responsible for soliciting comments about and developing ratings of programs and offices in each Federal agency that regulates the small business community. Carrying out this responsibility would require the ombudsman to become familiar with the operations of hundreds of programs in dozens of agencies. That's just not a reasonable expectation.

Second, ombudsmen have traditionally been neutral officials who field complaints and recommend solutions to individual disputes between the Government and the regulated public. The broad jurisdiction of the office proposed in this bill would prohibit the ombudsman from focusing on the day-to-day problems small businesses face in dealing with agency regulators. The EPA Small Business ombudsman fields thousands of such inquiries every year, and that's just for one agency. Rather than investigating and mediating individual disputes himself or herself, the ombudsman would have to refer alleged cases of agency misconduct to the inspector general of the relevant agency.

In other words, the ombudsman wouldn't receive information for the purpose of mediating disputes, solving problems, and fostering collaboration between agencies and regulated parties. Instead the ombudsman would receive information primarily for assessing agency performance. That doesn't help get immediate and specific problems solved.

At the hearing on S. 942 in the Small Business Committee, several representatives of the small business community said that they would prefer to have a single ombudsman in the Small Business Administration rather than an ombudsman in each individual regulatory agency. They argued that agency ombudsmen could be influenced by internal agency politics and that, because of this, small businesses would be susceptible to intimidation by regulators if they came forward with complaints. While I understand the reluctance of small businesses to complain directly to an agency official about inappropriate regulatory practices, I believe that ombudsmen in regulatory agencies can be given sufficient independence from the regulatory structure to act fairly and to assure regulated parties that their inquiries will not be used against them.

One witness, Wendy Lechner from the Printing Industries of America, made a point of praising the work of the Small Business Ombudsman at the Environmental Protection Agency and recommended that such ombudsman programs should be replicated throughout the regulatory agencies. The EPA office is one of approximately half a dozen ombudsman offices operating throughout the Federal Government that address disputes between agencies and the regulated public. By and large, these ombudsmen have improved communications between the agencies and regulated parties, uncovered systemic problems and chronic abuses in the regulatory process, and saved valuable resources through informal dispute resolution that otherwise would have been wasted on the costs of formal legal proceedings.

Mr. President, I do not think the ombudsman provision in S. 942 solves the enforcement problem for small businesses. I will continue to work on legislation that would place an ombudsman in each regulatory agency. I think such an approach would foster collaboration between small businesses and the agencies that regulate them and achieve better results.

I commend the chairman and ranking Democrat on the Small Business Committee for their hard work on this bill and look forward to working with them as my ombudsman proposal is developed.

THE SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996

Mr. DOMENICI. Mr. President, I know I do not have to tell you that small businesses create most of the jobs in America. Small businesses are the engine that keep the American economy running. I know that in my State small businesses make up 85 to 90 percent of private employers. In that regard, I have created a New Mexico small business advisory board.

I have also participated in Small Business Committee field hearings throughout my State. Indeed, I was privileged to have had the chairman of the Small Business Committee, Senator BOND, come out to New Mexico and hear from those New Mexico small businesses firsthand at a Small Business Committee field hearing in Albuquerque.

Mr. President, what we found was that almost all of the small business owners we talked to—who are the people who create almost all of the private sector jobs in my State—told us just

how smothering the explosion in Federal regulations has become.

In particular, those small business owners identified the Occupational Safety and Health Administration [OSHA] and the Environmental Protection Agency [EPA] as the two Federal agencies which promulgate the most unreasonable and burdensome regulations. Mr. President, these small business painted a picture of the Federal bureaucracy at its worst: arrogant, unresponsive, inefficient, and unaccountable.

Further, Mr. President, because a great number of new businesses are being started by women, some of the most vocal critics of EPA's and OSHA's unreasonable regulations are women-owned businesses.

I believe one of the biggest reasons for these bureaucratic problems is that small businesses are just not adequately consulted when regulations affecting them are being proposed and promulgated. I am not alone in this belief. In 1994 five agencies—including the Small Business Administration, EPA, and OSHA—held a small business forum on regulatory reform, and they came up with some conclusions about the problems with the current regulatory process.

Let me quote from the administration's own report summarizing the principal concerns identified at the forum:

Concern: ''The inability of small business owners to comprehend overly complex regulations and those that are overlapping, inconsistent and redundant;''

Concern: ''The need for agency regulatory officials to understand the nuances of the regulated industry and the compliance constraints of small business;''

Concern: ''The perceived existence of an adversarial relationship between small business owners and federal agencies;''

And finally, Mr. President, and I think most important:

Concern: ''The need for more small business involvement in the regulatory development process, particularly during the analytic, risk assessment and preliminary drafting stages.''

Mr. President, this is the agencies' own report on the problems with the regulatory process.

During the floor debate on last year's regulatory reform bill, Chairman BOND and I successfully added an amendment that would have squarely addressed those concerns. That amendment had the support of the National Federation of Independent Business, and was accepted by the Senate. As we all know, however, the broader regulatory bill did pass.

That is why I am so happy to have worked with Chairman BOND to ensure that my small business advocacy panel initiative was included as a section of the bill we are about to vote on today, the Small Business Regulatory Enforcement Fairness Act of 1996. The small business community has no greater champion than my good friend from Missouri, and I am proud to be associated with his outstanding bill.

Mr. President, the structure and process of these advocacy panels is as follows:

First, prior to publication of an initial regulatory flexibility—reg flex—analysis, an agency would notify the Chief Counsel for Advocacy of the Small Business Administration of potential impacts of a proposed rule on small business.

Second, the Chief Counsel would identify individual representatives of small business for advice and recommendations about the proposed rule.

Third, the agency would convene a review panel consisting of representatives of the agency, the Office of Information and Regulatory Affairs, and the Chief Counsel, to review the information collected on the impact of the proposed rule on small business.

Pursuant to the information obtained at the review panels, and where appropriate, the agency shall modify its proposed rule.

Finally, the findings and comments of the review panel shall be included as part of the rulemaking record.

This process shall be repeated prior to the final publication of a reg flex analysis.

Remember, Mr. President, the agencies themselves have recognized that small businesses are underrepresented during rulemakings. I believe that these review panels, convened before the initial and the final reg flex analyses, will ensure that small businesses finally have an adequate voice in the regulatory process. In addition, these panels, working together so all viewpoints are represented, will be the crux of reasonable, consistent, and understandable rulemaking. Finally, Mr. President, and perhaps most important, these panels will help reduce counterproductive, unreasonable Federal regulations at the same time they are helping to foster the nonadversarial, cooperative relationships that most agree are long overdue between small businesses and Federal agencies.

Mr. HELMS. Mr. President, the pending bill, S. 942, the Small Business Regulatory Enforcement Fairness Act of 1996, deserves the support of all Senators—and the able chairman of the Small Business Committee, our good friend from Missouri, Mr. BOND, is to be commended for his persistence.

This legislation is badly needed. In North Carolina literally hundreds of small businesses are struggling under the heavy regulatory burdens imposed by the Washington bureaucracy. These businesses are seeing their profit margins gobbled up by oppressive Federal regulations.

Mr. President, S. 942, will go a long way toward leveling the playing field and giving small businesses some long overdue relief from a portion of existing burdensome regulations. Small businesses now will be better able to challenge burdensome regulations in the courts.

Federal agencies hereafter will be required to obtain the views and opinions of small businesses before regulations are drafted, making small businesses players before regulations are drafted and imposed.

Mr. President, Mary McCarthy in the October 18, 1958, New Yorker Magazine observed, ''Bureaucracy, the rule of no one, has become the modern form of despotism.''

How true, and I'm hopeful that both the Senate and the House will pass this legislation, and that the President will sign it, because no bureaucracy or bureaucrat should be permitted to be a despot over the people they are supposed to be serving.

DUTIES AND FUNCTIONS OF THE OMBUDSMAN

Mr. LEVIN. One of the proposals put forward in S. 942 would establish an ombudsman position in the Small Business Administration. The proposal of the Senator from Missouri would provide a way to gather and publicize information about how agencies across the board treat small businesses in the regulatory enforcement process. I have concerns about the language the bill uses to describe the duties and functions of the ombudsman.

Specifically, I would like to ask the Senator from Missouri about title II, section 30(b)(2) (A) and (C). In an earlier version of the bill, these sections, which outline the duties of the ombudsman, stated that the ombudsman shall

work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are [provided with a means to comment on and rate the performance of such personnel],

and,

based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies [concerning the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices and personnel of each agency].

This language appeared to direct small businesses and the ombudsman to publish employment ratings of specific agency employees who carry out regulatory enforcement actions. While the boards and the ombudsman are specifically directed to report on substantiated actions of agency personnel, I am concerned that this provision would have focused attention inappropriately on public ratings of individuals rather than on rating the performance of the agencies and agency offices. Such an individual rating system could interfere with the employment relationship between agencies and their employees.

The language of the bill before us today is somewhat different from the earlier version. The current version of the bill states that the ombudsman shall

work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by

agency personnel are [provided with a means to comment on the enforcement activity conducted by such personnel],

and

based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies [evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency].

While the current language still allows for comment on the enforcement activities of agency personnel in order to identify potential abuses of the regulatory process, it appears to remove the mandate for the boards and the ombudsman to create a public performance rating of individual agency employees. Senator BOND, is this interpretation correct and, if so, was the change in language made in order to focus the reports of the boards and the ombudsman on rating overall agency performance rather than on rating individual regulators?

Mr. BOND. The Senator's interpretation of the change in language is correct. My goal is to reduce the instances of excessive and abusive enforcement actions. Those actions obviously originate in the acts of individual enforcement personnel. Sometimes the problem is with the policies of an agency, and we are very definitely trying to change the culture and policies of Federal regulatory agencies. At other times, the problem is really that there are some bad apples at these agencies. It is for that reason that we specifically included a provision to allow the ombudsman, where appropriate, to refer serious problems with individuals to the agency's inspector general for proper action. The ombudsman's report to Congress should not single out individual agency employees by name or assign an individual evaluation or rating that might interfere with agency management and personnel policies. The intent of the bill is to give small businesses a voice in evaluating the overall performances of agencies and agency offices in their dealings with the small business community.

Mr. LEVIN. I thank the chairman of the Small Business Committee. This is an important change and clarifies that the purpose of the ombudsman's report is not to rate individual agency personnel, but to assess each program's or agency's performance as a whole.

Mr. DASCHLE. Mr. President, passage of the Small Business Regulatory Fairness Act will mark an important milestone in our efforts to provide American business with reasonable, common sense regulatory relief. It is a bill that should be passed by Congress and sent to the President with dispatch.

This legislation, which was approved unanimously by the Senate Small Business Committee, and which I expect will pass the Senate with overwhelming bipartisan support, will provide much needed change in the way Federal agencies deal with American small business. It acknowledges that the Federal bureaucracy often chokes small business in red tape, and institutes a number of reforms that will unleash their productive energy without diminishing the Federal responsibility to protect the public health and safety. Passage of this bill will send an important message to small business owners across the country that their voice is being heard in Washington, DC.

Small businesses already face a daunting array of challenges, from the uncertain economic climate to the myriad daily paperwork burdens of accounting, bookkeeping, and bill paying. The further burden of keeping up with, and complying with, Federal regulations can discourage even the most stalwart business men and women from striving to achieve their dream of entrepreneurship.

The Federal Government has a responsibility to protect worker health and safety, public health, and the environment. In that effort, agencies issue regulations, but experience shows that many of those regulations look good on paper, but don't work in the real world. This bill acknowledges that fact and demonstrates our determination to both confront and correct mistakes.

Federal agencies should be as sensitive as possible to the challenges faced by small businesses in America, and I expect this bill will help achieve that goal. Many of this bill's provisions were developed by small business owners from South Dakota and across the country during the White House Conference on Small Business last summer. No one knows more about the risks and pitfalls associated with owning a small business than businesspeople themselves. The White House conference gave them a forum in which to discuss how the regulatory process could be improved, and I am glad that Congress has taken to heart what they had to say on this subject.

One of the most frequent criticisms I hear from small business owners is that Federal agencies bring harsh enforcement actions against businesses for relatively insignificant and unintentional violations of Federal rules. This legislation responds to that concern by requiring agencies to develop policies to waive fines for first-time, nonserious violations.

The legislation also requires Federal agencies to publish easy-to-read guidance for small business to comply with Federal rules and creates a small business and agricultural ombudsman at the Small Business Administration to provide a means to comment on agency enforcement personnel and to develop a customer satisfaction rating of Federal agencies. It assists small businesses in recovering attorneys' fees if they have been subject to excessive and unsustainable enforcement actions, and subjects final agency actions under the Regulatory Flexibility Act to judicial review. Small businesses will now be able to hold the feet of Federal agencies to the fire and ensure that they comply with the letter and spirit of the Regulatory Flexibility Act

Finally, I am very pleased that the congressional veto legislation developed by Senators Reid and NICKLES and passed by the Senate last year has been added to the Small Business Regulatory Fairness Act. The REID/NICKLES provision establishes a process through which Congress can review major regulations before they are issued, thereby ensuring that the agencies developing these rules adhere to the intent of Congress and develop reasonable requirements for American business.

Mr. President, the Small Business Regulatory Fairness Act was written with advice from the small business community and will pass the Senate with strong bipartisan support. It reaffirms Congress' belief in the essential role that small business plays in the American economy and sends a clear signal that the public and private sectors are ready to work together in promoting the economic growth and expansion we will need to compete in the 21st century. I urge all my colleagues to support this important bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—100

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Pell
Brown	Hatch	Pressler
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Dole	Lautenberg	Thurmond
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Exon	Lieberman	Wyden
Faircloth	Lott	
Feingold	Lugar	

The bill (S. 942) was passed, as follows:

S. 942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Small Business Regulatory Enforcement Fairness Act of 1996''.

SEC. 2. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the White House Conference on Small Business involve reforms to the way Government regulations are developed and enforced, and reductions in Government paperwork requirements;

(5) the requirements of the Regulatory Flexibility Act have too often been ignored by Government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by the Regulatory Flexibility Act.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of the Regulatory Flexibility Act;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

SEC. 4. EFFECTIVE DATE.

This Act shall become effective on the date 90 days after enactment, except that the amendments made by title IV of this Act shall not apply to interpretive rules for which a notice of proposed rulemaking was published prior to the date of enactment.

TITLE I—REGULATORY COMPLIANCE SIMPLIFICATION

SEC. 101. DEFINITIONS.

For purposes of this Act—

(1) the terms ''rule'' and ''small entity'' have the same meanings as in section 601 of title 5, United States Code;

(2) the term ''agency'' has the same meaning as in section 551 of title 5, United States Code; and

(3) the term ''small entity compliance guide'' means a document designated as such by an agency.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides''. The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources if information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 103. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency, it shall be the practice of the agency to answer inquiries by small entities concerning information on and advice about compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

SEC. 104. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking ''and'' at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

''(Q) providing assistance to small business concerns regarding regulatory requirements, including providing training with respect to cost-effective regulatory compliance;

''(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 102(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 to small business concerns; and

''(S) developing programs to provide confidential onsite assessments and recommendations regarding regulatory compliance to small business concerns and assisting small business concerns in analyzing the business development issues associated with regulatory implementation and compliance measures.''.

SEC. 105. MANUFACTURING TECHNOLOGY CENTERS AND PROGRAMS ESTABLISHED UNDER SECTION 507 OF THE CLEAN AIR ACT AMENDMENTS OF 1990.

(a) GENERAL.—The Manufacturing Technology Centers and other similar extension centers administered by the National Institute of Standards and Technology of the Department of Commerce shall, as appropriate, provide the assistance regarding regulatory requirements, develop and distribute information and guides and develop the programs to provide confidential onsite assessments and recommendations regarding regulatory compliance to the same extent as provided for in section 104 of this Act with respect to Small Business Development Centers.

(b) SECTION 507 PROGRAMS.—Nothing in this Act in any way limits the authority and operation of the small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990.

SEC. 106. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the States, develop guides that fully integrate requirements of both Federal and State regulations where regulations within an agency's area of interest at the Federal and State levels impact small businesses. Where regulations vary among the States, separate guides may be created for separate States in cooperation with State agencies.

TITLE II—REGULATORY ENFORCEMENT REFORMS

SEC. 201. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

''SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

''(a) DEFINITIONS.—For purposes of this section, the term—

''(1) ''Board'' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

''(2) ''Ombudsman'' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

''(b) SBA ENFORCEMENT OMBUDSMAN.—

''(1) Not later than 180 days after the date of enactment of this section, the Administration shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

''(2) The Ombudsman shall—

''(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, onsite inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

''(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section

7 of the Inspector General Act of 1978 (5 U.S.C. App.);

''(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

''(D) coordinate and report annually on the activities, findings, and recommendations of the Boards to the Administration and to the heads of affected agencies; and

''(E) provide the affected agency with an opportunity to comment on draft reports prepared under paragraph (C) and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

''(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

''(1) Not later than 180 days after the date of enactment of this section, the Administration shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

''(2) Each Board established under paragraph (1) shall—

''(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

''(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

''(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

''(3) Each Board shall consist of five members appointed by the Administration, who are owners or operators of small entities, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate.

''(4) Members of the Board shall serve for terms of three years or less.

''(5) The Administration shall select a chair from among the members of the Board who shall serve for not more than 2 years as chair.

''(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

''(d) POWERS OF THE BOARDS.—

''(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

''(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(3) The Board may accept donations of services necessary to conduct its business: *Provided,* That the donations and their sources are disclosed by the Board.

''(4) Members of the Board shall serve without compensation: *Provided,* That members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.''.

SEC. 202. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered by the small entity through participation in a compliance assistance or audit program operated or supported by the agency or a State;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to Congress no later than 2 years from the effective date on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

TITLE III—EQUAL ACCESS TO JUSTICE ACT AMENDMENTS

SEC. 301. ADMINISTRATIVE PROCEEDINGS.

Section 504 of title 5, United States Code, is amended—

(1) in subsection (b), by striking ''$75'' in subparagraph (b)(1) and inserting ''$125''; and

(2) in subsection (a) by adding the following new paragraph:

''(4) In an adversary adjudication brought by an agency, an adjudicative officer of the agency shall award attorney's fees and other expenses to a party or a small entity, as defined in section 601, if the decision of the adjudicative officer is disproportionately less favorable to the agency than an express demand by the agency, unless the party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award of attorney's fees unjust. For purposes of this paragraph, an 'express demand' shall not include a recitation by the agency of the maximum statutory penalty (A) in the administrative complaint, or (B) elsewhere when accompanied by an express demand for a lesser amount. Fees and expenses awarded under this paragraph may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31, United States Code.''.

SEC. 302. JUDICIAL PROCEEDINGS.

Section 2412 of title 28, United States Code, is amended—

(1) in paragraph (d), by striking ''$75'' in subparagraph (2)(A) and inserting ''$125''; and

(2) in paragraph (d)(1) by adding the following new subparagraph:

''(D) In a civil action brought by the United States, a court shall award attorney's fees and other expenses to a party or a small entity, as defined in section 601 of title 5, United States Code, if the judgment finally obtained by the United States is disproportionately less favorable to the United States than an express demand by the United States, unless the party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award of attorney's fees unjust. For purposes of this subparagraph, an 'express demand' shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount. Fees and expenses awarded under this subparagraph may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31, United States Code.''.

TITLE IV—REGULATORY FLEXIBILITY ACT AMENDMENTS

SEC. 401. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603(a) of title 5, United States Code, is amended—

(1) by inserting after ''proposed rule'', the phrase '', or publishes a notice of proposed rulemaking for an interpretive rule involving the internal revenue laws of the United States''; and

(2) by inserting at the end of the subsection, the following new sentence: ''In the case of an interpretive rule involving the internal revenue laws of the United States, this chapter applies to interpretive rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretive rules impose on small entities a collection of information requirements, as defined in the Paperwork Reduction Act of 1995.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

''(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or is otherwise required to publish an initial regulatory flexibility analysis, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

''(1) a succinct statement of the need for, and objectives of, the rule;

''(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

''(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

''(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

''(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small business was rejected.''; and

(2) in subsection (b), by striking ''at the time'' and all that follows and inserting ''such analysis or a summary thereof.''.

SEC. 402. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled

to judicial review of agency compliance with the requirements of this chapter, except the requirements of sections 602, 603, 609 and 612.

''(2) Each court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review any claims of noncompliance with this chapter, except the requirements of sections 602, 603, 609 and 612.

''(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to a petition for judicial review under this section.

''(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, a petition for judicial review under this section shall be filed not later than—

''(i) one year after the date the analysis is made available to the public, or

''(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the one year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

''(4) If the court determines, on the basis of the rulemaking record, that the final agency action under this chapter was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court shall order the agency to take corrective action consistent with this chapter, which may include—

''(A) remanding the rule to the agency, and

''(B) deferring the enforcement of the rule against small entities, unless the court finds good cause for continuing the enforcement of the rule pending the completion of the corrective action.

''(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

''(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

''(c) Except as otherwise required by this chapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct a rulemaking.

''(d) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

''(e) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.''.

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

''(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual and legal reasons for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.''.

(b) Section 612 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives'' and inserting ''the Committees on the Judiciary and Small Business of the Senate and House of Representatives''.

(2) in subsection (b), by striking ''his views with respect to the'' and inserting in lieu thereof, ''his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the''.

SEC. 404. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.—Section 609 of title 5, United States Code, is amended—

(1) before ''techniques,'' by inserting ''the reasonable use of'';

(2) in paragraph (4), after ''entities'', by inserting ''including soliciting and receiving comments over computer networks'';

(3) by designating the current text as subsection (a); and

(4) by adding the following new subsection:

''(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

''(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

''(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

''(3) the agency shall convene a review panel for such rule consisting wholly of fulltime Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

''(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

''(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c): *Provided*, That such report shall be made public as part of the rulemaking record; and

''(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

''(c) Prior to publication of a final regulatory flexibility analysis that a covered agency is required by this chapter to conduct—

''(1) an agency shall reconvene the review panel established under paragraph (b)(3), or if no initial regulatory flexibility analysis was published, undertake the actions described in paragraphs (b) (1) through (3);

''(2) the panel shall review any material the agency has prepared in connection with this chapter, including any draft rule, collect the advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsection 604(a), paragraphs (3), (4) and (5);

''(3) not later than 15 days after the date a covered agency convenes a review panel pursuant to paragraph (1), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsection 604(a), paragraphs (3), (4) and (5): *Provided*, That such report shall be made public as part of the rulemaking record; and

''(4) where appropriate, the agency shall modify the final rule, the final regulatory flexibility analysis or the decision on whether a final regulatory flexibility analysis is required.

''(d) An agency may in its discretion apply subsections (b) and (c) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

''(e) For purposes of this section, the term 'covered agency' means the Environmental Protection Agency and the Occupational Health and Safety Administration of the Department of Labor.

''(f) The Chief Counsel for Advocacy, in consultation with the individuals identified in paragraph (b)(2) and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of paragraphs (b)(3), (b)(4), and (b)(5), and subsection (c) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows—

''(1) in developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration; or in developing a final rule, the extent to which the covered agency took into consideration the comments filed by the individuals identified in paragraph (b)(2);

''(2) special circumstances requiring prompt issuance of the rule; and

''(3) whether the requirements of subsection (b) or (c) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.''.

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

TITLE V—CONGRESSIONAL REVIEW

SEC. 501. SHORT TITLE.

This title may be cited as the ''Congressional Review Act of 1996''.

SEC. 502. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the effectiveness of certain significant final rules is imposed in order to provide Congress an opportunity for review.

SEC. 503. MORATORIUM ON REGULATIONS; CONGRESSIONAL REVIEW.

(a) REPORTING AND REVIEW OF REGULATIONS.—

(1) REPORTING TO CONGRESS AND THE COMPTROLLER GENERAL.—

(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule; and

(iii) the proposed effective date of the rule.

(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions relevant to section 603, section 604, section 605, section 607, and section 609 of Public Law 96–354;

(iii) the agency's actions relevant to title II, section 202, section 203, section 204, and section 205 of Public Law 104–4; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders, such as Executive Order 12866.

(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

(2) REPORTING BY THE COMPTROLLER GENERAL.—

(A) The Comptroller General shall provide a report on each significant rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 504(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by subparagraph (B) (i) through (iv).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under paragraph (2)(A) of this section.

(3) EFFECTIVE DATE OF SIGNIFICANT RULES.—A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

(A) the later of the date occurring 45 days after the date on which—

(i) the Congress receives the report submitted under paragraph (1); or

(ii) the rule is published in the Federal Register;

(B) if the Congress passes a joint resolution of disapproval described under section 504 relating to the rule, and the President signs a veto of such resolution, the earlier date—

(i) on which either House of Congress votes and fails to override the veto of the President; or

(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 504 is enacted).

(4) EFFECTIVE DATE FOR OTHER RULES.—Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

(5) FAILURE OF JOINT RESOLUTION OF DISAPPROVAL.—Notwithstanding the provisions of paragraph (3), the effective date of a rule shall not be delayed by operation of this title beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 504.

(b) TERMINATION OF DISAPPROVED RULEMAKING.—A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 504.

(c) PRESIDENTIAL WAIVER AUTHORITY.—

(1) PRESIDENTIAL DETERMINATIONS.—Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this title may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) GROUNDS FOR DETERMINATIONS.—Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

(A) necessary because of an imminent threat to health or safety or other emergency;

(B) necessary for the enforcement of criminal laws; or

(C) necessary for national security.

(3) WAIVER NOT TO AFFECT CONGRESSIONAL DISAPPROVALS.—An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 504 or the effect of a joint resolution of disapproval under this section.

(d) TREATMENT OF RULES ISSUED AT END OF CONGRESS.—

(1) ADDITIONAL OPPORTUNITY FOR REVIEW.—In addition to the opportunity for review otherwise provided under this title, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 504 shall apply to such rule in the succeeding Congress.

(2) TREATMENT UNDER SECTION 504.—

(A) In applying section 504 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report must be submitted to Congress before a final rule can take effect.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

(e) TREATMENT OF RULES ISSUED BEFORE THIS TITLE.—

(1) OPPORTUNITY FOR CONGRESSIONAL REVIEW.—The provisions of section 504 shall apply to any significant rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on March 1, 1996, through the date on which this title takes effect.

(2) TREATMENT UNDER SECTION 504.—In applying section 504 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of this Act; and

(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 504.

(f) NULLIFICATION OF RULES DISAPPROVED BY CONGRESS.—Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 504 shall be treated as though such rule had never taken effect.

(g) NO INFERENCE TO BE DRAWN WHERE RULES NOT DISAPPROVED.—If the Congress does not enact a joint resolution of disapproval under section 504, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

SEC. 504. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) JOINT RESOLUTION DEFINED.—For purposes of this section, the term ''joint resolution'' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 503(a) is received by Congress and ending 45 days thereafter, the matter after the resolving clause of which is as follows: ''That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.''. (The blank spaces being appropriately filled in.)

(b) REFERRAL.—

(1) IN GENERAL.—A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

(2) SUBMISSION DATE.—For purposes of this subsection the term ''submission or publication date'' means the later of the date on which—

(A) the Congress receives the report submitted under section 503(a)(1); or

(B) the rule is published in the Federal Register.

(c) DISCHARGE.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain

the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(3) FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) TREATMENT IF OTHER HOUSE HAS ACTED.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) NONREFERRAL.—The resolution of the other House shall not be referred to a committee.

(2) FINAL PASSAGE.—With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) CONSTITUTIONAL AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 505. SPECIAL RULE ON STATUTORY, REGULATORY AND JUDICIAL DEADLINES.

(a) IN GENERAL.—In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 504, that deadline is extended until the date 12 months after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 503(a).

(b) DEADLINE DEFINED.—The term ''deadline'' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

SEC. 506. DEFINITIONS.

For purposes of this title—

(1) FEDERAL AGENCY.—The term ''Federal agency'' means any ''agency'' as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) SIGNIFICANT RULE.—The term ''significant rule''—

(A) means any final rule that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds—

(i) has an annual effect on the economy of $100,000,000 or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(ii) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(iii) materially alters the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866; and

(B) shall not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by such Act.

(3) FINAL RULE.—The term ''final rule'' means any final rule or interim final rule. As used in this paragraph, ''rule'' has the meaning given such term by section 551 of title 5, United States Code, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

SEC. 507. JUDICIAL REVIEW.

No determination, finding, action, or omission under this title shall be subject to judicial review.

SEC. 508. APPLICABILITY; SEVERABILITY.

(a) APPLICABILITY.—This title shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 509. EXEMPTION FOR MONETARY POLICY.

Nothing in this title shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

SEC. 510. EXEMPTION FOR HUNTING AND FISHING.

Nothing in this title shall apply to rules that establish, modify, open, close, or conduct a regulatory program for a commercial, recreational, or subsistence activity relating to hunting, fishing, or camping.

SEC. 511. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

Mr. BOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I would like to express my appreciation to my colleagues for the overwhelming endorsement of this small business regulatory relief measure. Particularly, I want to thank my ranking member, Senator BUMPERS. He and all the members of the committee worked very hard on this bill.

The purpose of the bill is to provide targeted relief to small businesses, small entities such as townships, counties, and cities, and not-for-profit organizations who feel overwhelmed by Government regulation.

This is a measure providing judicial enforcement and therefore, putting teeth into the requirements of the measure that Congress adopted in 1980 saying that regulations affecting small business and small entities must have an analysis to make sure that flexibility for these small entities was included and was a No. 3 priority for small business. At the White House Conference on Small Business held in Washington last year, 2,000 delegates from all across the country said this was the third most important item on their agenda.

We took that message from the small businesses, from small entities, from people who attended our hearings across the country and in Washington, and people who contacted us in our States, and we crafted a measure that had the strongest bipartisan support. Our staffs worked with a wide variety of groups. We had the full support of the President and the Administrator of the Small Business Administration. But lots of people had lots of concerns and lots of little issues that needed to be addressed in this bill. As a result, we made significant numbers of minor changes to make sure that the bill did what it accomplishes.

I believe that while the project is not perfect, it is an excellent measure. I hope we will see quick action on it in the House so that we may come to conference and agree, and send to the President something at least very close to this measure.

I wish to extend a very special thanks to the counsel for the minority, John Ball, to the director of the Small Business Committee, Louis Taylor, and to Keith Cole. Among them, they listened to many, many hours of telephone calls and concerns from people who had a little fix here and a little fix there. The end product, I think, reflected much good advice and some advice that could not be taken. But I express appreciation, first, to the members of the Small Business Committee themselves who worked hard on this, to all of their staffs, and to the representatives of small business who showed the strength and the resolve to keep us focused on this, a measure designed to provide regulatory relief to an area which has experienced tremendous burdens from Government regulations.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if in morning business for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VOID IN MORAL LEADERSHIP

Mr. GRASSLEY. Mr. President, last week, a new book hit the stands titled ''Blood Sport.'' It is written by Mr. James B. Stewart.

The book is an account of the Whitewater issue. Many of us have had trouble understanding the issue. Reading this book helps. It makes a complicated financial scandal read more like a story.

Mr. Stewart was given access to sources by the White House. In part, it was because he is ideologically compatible with the Clintons. Those are Mr. Stewart's bona fides for the book he writes about the President and the First Lady.

In his own words, Mr. Stewart paints the character of the first couple this way:

> [T]he Clintons themselves proved no different from their recent predecessors in the White House, deeply enmeshed in a Washington culture so accustomed to partisan distortion and ''spin'' that truth is the most frightening prospect of all.

Let me repeat that last phrase, Mr. President: ''* * * that truth is the most frightening prospect of all.''

Mr. Stewart's observation seems to substantiate those of columnist Charles Krauthammer. On January 12, Mr. Krauthammer's column appeared in the Washington Post under the title, ''Why Whitewater Now?'' In it, he calls Whitewater ''a scandal that appears to be all coverup and no crime.'' He then asks the logical question: Why would there be a coverup if there's no crime? He asks the question of both Whitewater and Travelgate.

Here is his conclusion: ''Because the vanity of the Clintons is not that they are merely law abiding * * * but that they are morally superior.''

In Whitewater, the Clintons certainly are vulnerable. In October 1991, bill Clinton said: ''Let's not forget that the most irresponsible people of all in the 1980s were * * * those who sold out our savings and loans with bogus deals.''

Meanwhile, we now find that Mrs. Clinton drafted the option papers for Castle Grande on behalf of Madison Guaranty Savings & Loan. Federal regulators have called Castle Grande a sham operation. Isn't it fair, then, to lump the Clintons into the same category of, using Clinton's words, ''the most irresponsible people of all in the 1980s?''

In Travelgate, the Clintons are once again vulnerable. Using Mr. Krauthammer's words, the ''morally superior'' Clintons, had an interest in covering up their nonillegal actions. After all, just how morally superior can one be when sacking seven innocent employees for a relative and a rich Hollywood crony, who, both, by the way, advised the action and stood to profit from it?

And finally, there's Cattlegate. During the 1992 campaign, the Clintons railed against Wall Street's high rollers. We later learn that the First Lady's luck had turned $1,000 into $100,000. Once again, the target of the Clintons' railing might well have included the Clintons themselves.

Mr. Krauthammer sums this all up in a phrase: ''Political duplicity.'' He says: ''[T]he offense is hypocrisy of a high order. Having posed as our moral betters, they had to cover up. At stake is their image * * *''

Mr. President, it is my view that there's a serious lack of moral leadership in the White House. By moral, I mean basic values such as honesty, trust, forthrightness. It is the quality most needed in the Presidency—in a President. The governed expect that their elected officials, their leaders, will be role models.

Franklin Roosevelt is a more credible source than I on this point. He once said: ''The Presidency is not merely an administrative office * * * It is more than an engineering job * * * It is preeminently a place of moral leadership.''

Clearly, FDR understood the importance of the First Family setting an exemplary standard for the governed.

I feel obliged to share these observations, Mr. President. Having long been a student of politics and history, I adopted a view held by another Roosevelt—Teddy Roosevelt. He commented on how important it is to criticize the President when warranted:

> [I]t is absolutely necessary that there should be full liberty to tell the truth about his acts * * * Any other attitude in an American citizen is both base and servile. To announce that there must be no criticism of the President * * * is not only unpatriotic and servile, but is morally treasonable to the American public * * * It is even more important to tell the truth, pleasant or unpleasant, about him than about any one else.

Mr. President, I feel the same obligation felt by Teddy Roosevelt—to tell the truth about the President. Pleasant or unpleasant. And the crucial issue is the same one proclaimed by Franklin Roosevelt—moral leadership.

In my view, there is a void in this White House of moral leadership. As we approach a new era, a new millenium, and a new world, this is not desirable. How can we be leaders of the free world without strong leadership at home?

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BOOK THAT BRINGS NEW UNDERSTANDING TO A TRAGIC ILLNESS

Mr. HOLLINGS. Mr. President, I would like to take a moment to talk about a book I recently read, and to recommend it to anyone who seeks to learn more about Alhzeimer's Disease. The book is called ''He Used To Be Somebody'' and it is a poignant, soul-searching account of one couple's struggle with the disease as told through the eyes of the wife and caregiver. The author is an extraordinary woman, Beverly Bigtree Murphy.

What made this story particularly moving for me is that I knew the man about whom the book is written. Tom Murphy was a good friend of mine. Even if you did not know Tom personally, however, you come to know him over the course of the book. And it is by watching the loss of his great spirit and personality little by little to this disease that the reader comes closer to understanding the reality of Alzheimer's.

The book is made up of episodes that illustrate the process by which Alzheimer's disease takes away a loved one. Through her personal anecdotes and history, Beverly Bigtree Murphy conveys a larger picture of what life with an Alzheimer's sufferer is like in a way that no clinical account can. She manages to incorporate in the book her whole ordeal, describing problems caused by lack of understanding from family and loved ones, discouragement from doctors, legal battles and the financial strain.

What other people would describe as a nightmare scenario—what is in fact a nightmare, the author accepts as real and shows how she has worked through it. In order to fight the fear, anger and sadness, she uses her strong resolve and her love for her husband.

There is a lot to be learned in this book about the effects of grief and the emotional toll of the disease. In addition to being a love story and a very personal account, ''He Used To Be Somebody'' also addresses the larger social issue of Alzheimer's disease. It seeks to disabuse the public of the misconceptions and distortions in the media and in society that stem from a fundamental lack of understanding. In this way, Beverly Bigtree Murphy acts as an advocate for Alzheimer patients and their families.

She asserts the power of positive thinking, and describes her realization that even in the face of a hopeless, unchangeable situation, people still have choices. They can choose how to respond. In ''He Used To Be Somebody,'' we see Beverly Murphy choose love over anger. Through her description of isolation, loneliness and feelings of being trapped, she achieves what she describes as: ''a mission to increase awareness of caregiver needs, and to work as an activist to improve the care of and attitudes towards the frail elderly in this country.''

Mr. President, I urge my colleagues to read this book. Whether or not you have a friend or loved one who suffers from Alzheimer's, this book is an excellent tool for understanding the nature of the disease. It is an informative guide and it is an inspirational story.

SHAWN AUSTIN

Mr. BAUCUS. Mr. President, I am proud to bring to the attention of the Senate, the courage and patriotism of a brave young Montanan. Shawn Austin, a Billings-born 21-year-old, was shot in the left shoulder while patrolling his base in Northern Bosnia. Shawn spotted an intruder trying to break in through his camp's perimeter. When Shawn challenged him, the intruder opened fire. Shawn was hit, but he was able to return fire and the intruder fled.

Fortunately, the bullet did not hit any bones and caused little damage. God willing, Shawn will be back on his feet very soon. He is the second soldier in the American peace-keeping force in Bosnia to be injured. And I think this occasion gives us a chance to pause and think deeply on our Nation's mission in this troubled part of the world.

I spoke with Shawn's parents, Terry and Doreen, last week. They are proud of and concerned about their son. I share their concerns. And I salute Shawn Austin for his bravery in the line of duty. He has paid a high price for our country. My thoughts and prayers are with him and his family.

THE DEATH OF ROSWELL GILPATRIC

Mr. KENNEDY. Mr. President, I was greatly saddened to hear of the death of Roswell Gilpatric this past Friday. As Deputy Secretary of Defense during President Kennedy's administration, he provided wise counsel throughout those thousand days—and especially during times of great crisis.

At the height of the Cuban missile crisis, when the crucial decision had to be made on what course of action to take—an air strike or a blockade—Roswell Gilpatric spoke up. His experience and wisdom led him to say to President Kennedy that, ''Essentially, this is a choice between limited action and unlimited action, and most of us think that it is better to start with limited action.'' At a very difficult moment, President Kennedy's respect for Ros Gilpatric's good judgment helped to reinforce his own instincts that it would be best to start with a course of limited action. We now know what officials did not know then—that the consequences of an air strike could have triggered a nuclear exchange, the results being too terrible to imagine.

Ted Sorensen said that Roswell Gilpatric was an ''indispensable'' man in the administration of President Kennedy, as his impact in the Cuban missile crisis illustrates. He was also valuable in his effort to help Secretary of Defense McNamara reorganize the Defense Department's management and command staffs. His intelligence, resourcefulness, and easygoing manner made him a man who could be depended on to handle great responsibility with grace, dignity, and diplomacy. His entire life was an example of that.

Roswell Gilpatric, a native of New York, attended Yale University. He graduated with honors as a member of Phi Beta Kappa and went on to Yale Law School where he became an editor of the Law Journal. After his graduation in 1931, he joined the law firm of Cravath, Swain & Moore where he rose to become a partner, and later presiding partner, from 1966 until his retirement in 1977. During these years he also made time for public service, first, as Undersecretary of the Air Force from 1951 to 1953, and then as a member of the New Frontier, assisting President Kennedy. After his public service in Washington, he returned to New York and became a director of the Federal Reserve Bank of New York and eventually its chairman.

From the beginning of his service as Deputy Secretary of Defense, Ros Gilpatric was a valued advisor to my brother. As the years passed, he provided warm friendship and loyal support to all of us in the Kennedy family, and especially to Jackie after the loss of President Kennedy. They shared an interest in the arts and worked together on many causes in his capacity as a trustee of NYU's Institute of Fine Arts, the New York Public Library, and the Metropolitan Museum.

Vicki joins me in expressing our deepest sympathy to his wife Mimi and his children, grandchildren, and great-grandchildren. I know that they take comfort and pride in his outstanding contributions to the Nation and New York. Roswell Gilpatric served his community and his country with great caring, commitment, and distinction. President Kennedy paid him his highest compliment when said of him what we all say now—Roswell Gilpatric made a difference.

PASSING OF TRIBAL ELDER

Mr. CAMPBELL. Mr. President, the Northern Cheyenne and native Americans across the country are mourning the loss of an elder, statesman, and ambassador for our people, and I would like to take a few moments to pay tribute to this extraordinary man whose death is a great loss not only for all Indian nations but for the entire country.

William ''Bill'' Tallbull's life exemplifies service and dedication to one's country and people. A World War II veteran, Bill spent much of his life on the Northern Cheyenne Reservation serving his tribe, including a position as a councilman for the Northern Cheyenne. He retired in 1972, and while most people dream of retirement, Bill was not the type of man to be idle. He came out of retirement a few short years later, and went on to serve his tribe and his country for another two decades.

Bill's list of accomplishments is a long and impressive list. He has done more in his lifetime than most people ever dream of doing. He became an assistant history professor at Dull Knife Memorial College, located on the Northern Cheyenne Reservation, teaching oral traditions and ethno-botany classes. From 1983 through 1995, he served as chairman of the Northern Cheyenne Tribal Cultural Resource Program, and in 1990, he received the Montana State Historic Preservation Award becoming the first native American so honored by the State of Montana.

Bill was also instrumental in the formation of the Native American Grave Protection and Repatriation Act, having worked with former Senator Melcher of Montana on the initial draft of that legislation. He was later appointed by former Secretary of the Interior Manual Lujan, Jr., to sit on the committee which wrote the regulations for this act. Bill was the only native American to serve on that committee.

In his ongoing efforts to safeguard the native American culture and heritage, Bill was a founder of the Medicine Wheel Alliance, an organization committed to preserving the Medicine Wheel National Historic Landmark in the Bighorn Mountains. This commitment to landmark preservation led President Clinton, in 1994, to appoint Bill to become the first native American ever to serve on the Advisory Council on Historic Preservation, a national panel committed to protecting historical landmarks across the country.

A professor, author, historian, and ethno-botanist, Bill was also a devoted husband, father, and tribal elder. He was admired and respected by all who knew him, and his commitment to the promotion of cultural awareness and to the protection of the native American heritage benefited all Americans, regardless of race or ethnicity.

I was honored to have known this distinguished tribal leader, and his death is a great loss for all of us. However, I'm certain Bill would not have wanted his death to create a void where his work is concerned. We can all learn from this great man and continue his work for cultural awareness and spiritual integrity of the land. There could be no better tribute to such a man as Bill Tallbull.

THE VALUE OF LIFE: HARVEY C. KRAUTSCHUN DAY IN SOUTH DAKOTA

Mr. PRESSLER. Mr. President, men are measured by both word and deed, yet the greater measure of man is by their deeds. A man's deeds shape the character of mankind. Our active protection of human life is a monumental measure of mankind's character. Harvey Krautschun's deeds define the essence of ''being committed to life'' and

his own personal character—one that should be a model for mankind.

All South Dakotans know Harvey for his great service in our State legislature. He has served in the legislature for 11 years. He has been the Speaker of the State House of Representatives for a year. Recently, Harvey announced he will not seek reelection. This is unfortunate. His shoes will be hard to fill. But I rise today to pay tribute to Harvey's contributions not as an elected official, which are many, but in his singular contribution as a loving, caring husband.

Recently, Gov. Bill Janklow declared Saturday, February 24, Harvey C. Krautschun Day in South Dakota. This honor was given for the life he saved—the life of his wife, Joy. He stood by Joy's hospital bed as she lay comatose for a month, fighting for her life. Because of his constancy and commitment to his wife's life, even as doctors began discussing terminating life-support, Harvey's devotion remained unmoved. He would see his wife awake again.

Harvey demonstrated bravery, courage, and faith in protecting his wife's life. Joy found herself in this condition also because of bravery and courage. In July of 1995, when a newborn colt jumped into an 8-foot-deep pond, Joy jumped in to save the colt. While trying to save the colt, Joy's heart suddenly failed. Harvey rushed to her side, and began administering mouth-to-mouth resuscitation. Their son, Bart, rushed to find additional help, calling an ambulance. Bart returned to his mother's side and performed cardiopulmonary resuscitation on her. Father and son together fought to save Joy's life. The massive heart failure pushed her into a coma. Miraculously, Joy awoke from her coma. Her recovery from the massive heart arrhythmia would entail months of hospitalizations and therapy. Joy did recover, she did awaken from the coma, and today she is living with her family. Doctors had believed she would not live. But Harvey and his family made a commitment to Joy's life, and, thereby, saved her.

To speak of saving a life, to speak of heroism measures a man's values and ideals. To take courageous, loving actions measures a man's valor and commitments. Considering the turbulence surrounding all of us on a daily basis, at times finding simple answers to our problems is difficult, if not humanly impossible. Some mornings while reading the South Dakota newspapers, I wonder, ''What keeps people so strong?'' In the quake of unforseen events—I have found strength in faith and prayer. So when I heard of the sudden accident of Joy Krautschun and the courageous and enduring actions of her husband, Harvey, I knew faith in the human spirit and prayer are the strongest, most powerful agent we have to combat the turbulence in our lives.

I have personally known Harvey for many years. As fellow runners, we jogged together through Spearfish Canyon. As a South Dakota statesman, Harvey has dutifully represented and protected his community, State, and all human life. Harvey has always been there for his constituents. In cases where the problem stretched to the Federal level, Harvey took the initiative to seek out help. It has been my pleasure to have worked with Harvey on such cases in the past. Harvey truly believes in fighting the good fight.

I have a great deal of respect and admiration for Harvey's leadership in the South Dakota Legislature. I trust and appreciate his views and advice on State and national issues. Harvey and his entire family are good, exemplary people and patriots of their Spearfish community.

Harriet and I wish Harvey and his family many more years of health and happiness. Harvey, Joy and their family continue to be in our thoughts and prayers. Knowing a man who is so committed in faith and deed to community, State, country, family, and the very essence of life is an honor. Harvey is true to his rocksolid beliefs in both word and deed.

February 24 may have been Harvey Krautschun Day for South Dakota, but it's safe to say that for Joy Krautschun, every day is Harvey Krautschun day.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the $5 trillion Federal debt stands today as an increasingly grotesque parallel to the energizer bunny on television that keeps moving and moving and moving—precisely in the same manner, and to the same extent, that President Clinton is allowing the Federal debt to keep going up and up into the stratosphere.

Politicians like to talk good games—and ''talk'' is the operative word—about cutting the Federal spending and thereby bringing the Federal debt under control. But watch how they vote on the big-spending bills.

Mr. President, at the close of business yesterday, March 18, the Federal debt stood at $5,055,609,537,686.31, an average per capita debt of $19,116.82 for every man, woman, and child in America.

DEFENSE AUTHORIZATION REQUEST FOR THE FISCAL YEAR 1997 AND THE FUTURE YEARS DEFENSE PROGRAM

Mr. THURMOND. Mr. President, today the administration officially sent its budget requests to the Congress. Although much of the detailed budget information is still not available for review, I want to provide my initial views of the material we have received in the Armed Services Committee. On the positive side of the ledger, I was very pleased that the military pay raise was fully funded in this budget request. The young men and women who serve our Nation in uniform continue to be the most important asset of our Nation's defense. This year, I intend that the Armed Services Committee will continue to provide increased funding for the quality-of-life initiatives and programs we began in last year's authorization bill.

Mr. President, I am troubled over several decisions made in the proposed budget. First is the Defense Department's decision to again reduce funding for critical ballistic missile defenses. We should be seeking ways to accelerate the development and deployment of both theater and national missile defense systems, not delay them. Under the Department's new proposal, we would not deploy a theater high altitude area defense system, commonly known as THAAD, or Navy upper tier, for another decade. This delay is unacceptable. I find it hard to believe that the administration would continue to place the lives of our service men and women at risk, by delaying this critical capability.

Additionally, the levels of spending for modernization are perilously dangerous. Gains made in last year's bill, as a result of funds added by Congress, to revitalize modernization, may be lost due to inadequate levels of funding in this budget. The procurement accounts have been reduced by 44 percent since fiscal year 1992. This year's budget request decreases procurement spending even further.

General Shalikashvili recently stated we should provide $60 billion a year for defense modernization by fiscal year 1998. This is 2 years earlier than the administration previously indicated in last year's budget, and now will not be achieved until fiscal year 2001. Recent testimony, before the Armed Services Committee by Vice Chairman of the Joint Chiefs of Staff, Admiral Owens, reinforces my concerns. I agree with Admiral Owens that we have a ''crisis in procurement.'' I agree with him also, that procurement continues to be underfunded.

While the Department's planning documents reflect increased spending for procurement in the outyears, I am not confident that we will ever get there. The administration's budget for this year reflects another decline in procurement spending. It appears that each year, modernization is used as a bill payer to fix other near term problems. This concerns me. I fail to see how this budget provides for adequate modernization. I believe that the Congress will be required to add funds to the defense budget again this year, to provide for minimal levels of modernization.

The Armed Services Committee will continue to look for opportunities to work with the military services, as we did last year, to add funds where they will have the most beneficial effects. We intend to invest money now where these investments will save money in the future.

As an example, last year we provided authority for multiyear procurement and an additional $82 million for the Longbow Apache Helicopter Program in the fiscal year 1996 Defense bill. As a result, we may save up to $1 billion over the life of this program. We want to continue to look at other innovative ways to achieve savings, which can then be applied toward other vital defense needs.

Finally, I remain concerned about the increasing frequency of deployments and the amount of time our men and women in uniform spend away from their homes and families. Ongoing and contingency operations, such as Haiti and Bosnia, not only drain resources away from current and future readiness, but place undue strain on our service members and their families.

Over the course of the next couple of months, the Armed Services Committee will continue to conduct an extensive evaluation of the budget request. Readiness, both current and long term, must be maintained and in some cases, revitalized. Modernization must be restored. Missile defense must become a reality.

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1494. An act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

REPORT OF THE BUDGET OF THE U.S. GOVERNMENT FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 133

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations and to the Committee on the Budget.

To the Congress of the United States:

The 1997 Budget, which I am transmitting to you with this message, builds on our strong economic record by balancing the budget in seven years while continuing to invest in the American people.

The budget cuts unnecessary and lower priority spending while protecting senior citizens, working families, and children. It reforms welfare to make work pay and provides tax relief to middle-income Americans and small business.

Three years ago, we inherited an economy that was suffering from short- and long-term problems—problems that were created or exacerbated by the economic and budgetary policies of the previous 12 years.

In the short term, economic growth was slow and job creation was weak. The budget deficit, which had first exploded in size in the early 1980s, was rising to unsustainable levels.

Over the longer term, the growth in productivity had slowed since the early 1970s and, as a result, living standards had stagnated or fallen for most Americans. At the same time, the gap between rich and poor had widened.

Over the last three years, we have put in place budgetary and other economic policies that have fundamentally changed the direction of the economy—for the better. We have produced stronger growth, lower interest rates, stable prices, millions of new jobs, record exports, lower personal and corporate debt burdens, and higher living standards.

Working with the last Congress in 1993, we enacted an economic program that has worked better than even we projected in spurring growth and reducing the deficit. We have cut the deficit nearly in half, from $290 billion in 1992 to $164 billion in 1995. As a share of the Gross Domestic Product, we have cut the deficit by more than half in three years, bringing the deficit to its lowest level since 1979.

While cutting overall discretionary spending, we also shifted resources to investments in our future. With wages increasingly linked to skills, we invested wisely in education and training to help Americans acquire the tools they need for the high-wage jobs of tomorrow. We also invested heavily in science and technology, which has been a strong engine of economic growth throughout the Nation's history.

For Americans struggling to raise their children and make ends meet, we have sought to make work pay. We expanded the Earned Income Tax Credit, providing tax relief for 15 million working families. And we have given 37 States the freedom to test ways to move people from welfare to work while protecting children.

As the economy has become increasingly global, prosperity at home depends heavily on opening foreign markets to American goods and services. With this in mind, we secured legislation to implement the General Agreement on Tariffs and Trade and the North American Free Trade Agreement, and we have completed over 80 other trade agreements. Under our leadership, U.S. exports have grown to an all-time high.

With these policies, we have helped pave the way for a future of sustained economic growth, low interest rates, stable prices, and more opportunity for Americans of all incomes. But our work is not done.

Looking ahead, as I said recently in my State of the Union address, we must answer three fundamental questions: First, how do we make the American dream of opportunity for all a reality for all Americans who are willing to work for it? Second, how do we preserve our old and enduring values as we move into the future? And, third, how do we meet these challenges together, as one America?

This budget addresses those questions.

CREATING AN AGE OF POSSIBILITY

I am committed to finishing the job that we began in 1993 and finally bringing the budget into balance. In our negotiations with congressional leaders, we have made great progress toward reaching an agreement. We have simply come too far to let this opportunity slip away.

A balanced budget would reduce interest rates for all Americans, including the young families across the land who are struggling to buy their first homes. It also would free up funds in the private markets with which businesses could invest in factories and equipment, or in training their workers.

But we have to balance the budget the right way—by cutting unnecessary and lower priority spending; investing in the future; protecting senior citizens, working families, children, and other vulnerable Americans; and providing tax relief for middle-income Americans and small businesses.

My budget does that. It strengthens Medicare and Medicaid, on which millions of senior citizens, people with disabilities, and low-income Americans rely. It reforms welfare. It cuts other entitlements. And it cuts deeply into discretionary spending.

But while cutting overall discretionary spending, my budget invests in education and training, the environment, science and technology, law enforcement, and other priorities to help build a brighter future for all Americans. We should spend more on what we need, less on what we don't.

PROJECTING AMERICAN LEADERSHIP

Across the globe, we live in a time of great opportunity and great challenge. With the end of the Cold War, the world looks to the United States for leadership. Providing it is clearly in our best interest. We must not turn away.

My budget provides the necessary resources to advance America's strategic interests, carry out our foreign policy, open markets abroad, and support U.S. exports. It also provides the resources to confront the emerging global threats that have replaced the Cold War as major concerns—regional, ethnic, and national conflicts; the proliferation of weapons of mass destruction; international terrorism and crime; narcotics trading; and environmental degradation.

On the diplomatic front, our successes have been numerous and heartening, and they have made the world a safer and more stable place. Through our leadership, we are helping to bring peace to Bosnia and the Middle East, and we have spurred progress in Northern Ireland. We also encouraged the movement toward democracy and free markets in Russia and Central Europe, and we led a successful international effort to defuse the nuclear threat from North Korea.

On the military front, we have deployed our forces where we could be effective and where it was in our interest to promote stability by ending bloodshed (such as in Bosnia) and suffering (such as in Rwanda). We also have used the threat of force to ease tensions, such as to unseat an unwelcome dictatorship in Haiti and to stare down Iraq when it threatened again to move against Kuwait.

This budget provides the funds to sustain and modernize the world's strongest, best-trained, best-equipped, and most ready military force. Through it, we continue to support service members and their families with quality-of-life improvements in the short term, while planning to acquire the new technologies that will become available at the turn of this decade.

CREATING OPPORTUNITY AND ENCOURAGING RESPONSIBILITY

The Federal Government cannot—by itself—solve most of the problems and address most of the challenges that we face as a people. In some cases, it must play a lead role—whether to ensure the guarantee of health care for vulnerable Americans, expand access to education and training, invest in science and technology, protect the environment, or make the Tax Code fairer. In other cases, it must play more of a partnership role—working with States, localities, non-profit groups, churches and synagogues, families, and individuals to strengthen communities, make work pay, protect public safety, and improve the quality of education.

To restore the American community, the budget invests in national service, through which 25,000 Americans this year are helping to solve problems in communities while earning money for postsecondary education or to repay student loans. We want to create more Empowerment Zones and Enterprise Communities to spur economic development and expand opportunities for the residents of distressed urban and rural areas. We want to expand the Community Development Financial Institutions Fund to provide credit and other services to such communities. With the same goal in mind, we want to transform the Department of Housing and Urban Development into an agency that better addresses local needs. And we want to maintain our relationship with, and the important services we provide to, Native Americans.

In health care, our challenge is to improve the existing and largely successful system, not to end the guarantees of coverage on which millions of vulnerable Americans rely. My budget strengthens Medicare and Medicaid, ensuring their continued vitality. For Medicare, it strengthens the Part A trust fund, provides more choice for seniors and people with disabilities, and makes the program more efficient and responsive to beneficiary needs. For Medicaid, it gives States more flexibility to manage their programs while preserving the guarantee of health coverage for the most vulnerable Americans, retains current nursing home quality standards, and continues to protect the spouses of nursing home residents from impoverishment. My budget proposes reforms to make private health care more accessible and affordable, and premium subsidies to help those who lose their jobs pay for private coverage for up to six months. It also invests more in various public health services, such as the Ryan White program to serve people living with AIDS, and research and regulatory activities that promote public health.

Because America's welfare system is broken, we have worked hard to fix those parts of it that we could without congressional action. For instance, we have given 37 States the freedom to test ways to move people from welfare to work while protecting children, and we are collecting record amounts of child support. But now, I need the help of Congress. Together, in 1993 we expanded the Earned Income Tax Credit for 15 million working families, rewarding work over welfare. Now, my budget overhauls welfare by setting a time limit on cash benefits and imposing tough work requirements, and I want us to enact bipartisan legislation that requires work, demands responsibility, protects children, and provides adequate resources to get the job done right—with child care and training, giving recipients the tools they need.

More and more, education and training have become the keys to higher living standards. While Americans clearly want States and localities to play the lead role in education, the Federal Government has an important supporting role to play—from funding preschool services that prepare children to learn, to expanding access to college and worker retraining. My budget continues the strong investments that we have made to give Americans the skills they need to get good jobs. Along with my ongoing investments, my budget proposes a Technology Literacy Challenge Fund to bring the benefits of technology into the classroom, a $1,000 merit scholarship for the top five percent of graduates in every high school, and more Charter Schools to let parents, teachers, and communities create public schools to meet their own children's needs.

As Americans, we can take pride in cleaning up the environment over the last 25 years, with leadership from Presidents of both parties. But our job is not done—not with so many Americans breathing dirty air or drinking unsafe water. My budget continues our efforts to find solutions to our environmental problems without burdening business or imposing unnecessary regulations. We are providing the necessary funds for the Environmental Protection Agency's operating program, for our national parks and forests, for my plan to restore the Florida Everglades, and for my ''brownfields'' initiative to clean up abandoned, contaminated industrial sites in distressed urban and rural communities. And we are continuing to reinvent the regulatory process by working collaboratively with business, rather than treating it as an adversary.

With science and technology (S&T) so vital to our economic future, our national security, and the well-being of our people, my budget continues our investments in this crucial area. To maintain our investments, I am asking Congress to fulfill my request for basic research in health sciences at the National Institutes of Health, for basic research and education at the National Science Foundation, for research at other agencies that depend on S&T for their missions, and for cooperative projects with universities and industry, such as the industry partnerships created under the Advanced Technology Program.

To attack crime, the Federal Government must work with States and communities on some problems and lead on others. To help communities, we continue to invest in the Community Oriented Policing Services (COPS) program, which is putting 100,000 more police on the street. We are helping States build more prisons and jail space, better enforce the Brady bill that helps prevent criminals from buying handguns, and better address the problem of youth gangs. At the Federal level, we are leading the fight to stop drugs from entering the country and expand drug treatment efforts, and we are stepping up our efforts to secure the border against illegal immigration while we help to defray State costs for such immigration.

For many families, of course, the first challenge often is just to pay the bills. My budget proposes tax relief for middle-income Americans and small businesses. It provides an income tax credit for each dependent child under 13; a deduction for college tuition and fees; and expanded individual retirement accounts to help families save for future needs and more easily pay for college, buy a first home, pay the bills during times of unemployment, or pay medical or nursing home costs. For small business, it offers more tax benefits to invest, provides estate tax relief, and makes it easier to set up pensions for employees. It also would expand the tax deduction to make health insurance for the self-employed more affordable.

MAKING GOVERNMENT WORK

As we pursue these priorities, we will do so with a Government that is leaner, but not meaner, one that works efficiently, manages resources wisely, focuses on results rather than merely spending money, and provides better service to the American people. Through the National Performance Review, led by Vice President Gore, we are making real progress in creating a Government that ''works better and costs less.''

We have cut the size of the Federal workforce by over 200,000 people, creating the smallest Federal workforce in 30 years, and the smallest as a share of the total workforce since before the New Deal. We are ahead of schedule to cut the workforce by 272,900 positions, as required by the 1994 Federal Workforce Restructuring Act that I signed into law.

Just as important, the Government is working better. Agencies such as the Social Security Administration, the Customs Service, and the Veterans Affairs Department are providing much better service to their customers. Across the Government, agencies are using information technology to deliver services more efficiently to more people.

We are continuing to reduce the burden of Federal regulation, ensuring that our rules serve a purpose and do not unduly burden businesses or taxpayers. We are eliminating 16,000 pages of regulations across Government, and agencies are improving their rulemaking processes.

In addition, we continue to overhaul Federal procurement so that the Government can buy better products at cheaper prices from the private sector. No longer does the Government pay outrageous prices for hammers, ashtrays, and other small items that it can buy cheaper at local stores.

As we look ahead, we plan to work more closely with States and localities, with businesses and individuals, and with Federal workers to focus our efforts on improving services for the American people. Under the Vice President's leadership, agencies are setting higher and higher standards for delivering faster and better service.

CONCLUSION

Our agenda is working. We have significantly reduced the deficit, strengthened the economy, invested in our future, and cut the size of Government while making it work better for the American people.

Now, we have an opportunity to build on our success by balancing the budget the right way. It is an opportunity we should not miss.

March 1996.

WILLIAM J. CLINTON.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2151. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the Office's Sequestration Preview Report for fiscal year 1997; pursuant to the order of August 4, 1977; referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC–2152. A communication from the Chairman of the Joint Chiefs of Staff, transmitting, pursuant to law, the 1996 Force Readiness Assessment; to the Committee on Armed Services.

EC–2153. A communication from the Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a cost comparison study relative to Davis-Monthan Air Force Base [AFB], Arizona; to the Committee on Armed Services.

EC–2154. A communication from the Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a cost comparison study relative to Lackland Air Force Base [AFB], Texas; to the Committee on Armed Services.

EC–2155. A communication from the Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a cost comparison study relative to Little Rock Air Force Base [AFB], Arkansas; to the Committee on Armed Services.

EC–2156. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Bureau of Export Administration's annual report for fiscal year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2157. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report entitled ''Rental Housing Assistance At A Crossroads''; to the Committee on Banking, Housing, and Urban Affairs.

EC–2158. A communication from the president and chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding a transaction involving exports to Republic of the Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–2159. A communication from the chairman of the board of the National Credit Union Administration, transmitting, pursuant to law, a report relative to schedules of compensation; to the Committee on Banking, Housing, and Urban Affairs.

EC–2160. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to authorization of Federal Aviation Administration for fiscal years 1997–99, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–2161. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Southeast Alaska Public Lands Information Center; to the Committee on Energy and Natural Resources.

EC–2162. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a notice concerning defense articles to Laos relative to Presidential Determination 93–45; to the Committee on Foreign Relations.

EC–2163. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–222 adopted by the council on February 6, 1996; to the Committee on Governmental Affairs.

EC–2164. A communication from the Director of the Office of Communications of the Department of Agriculture, transmitting, pursuant to law, the 1995 annual report of the Department under the Freedom of Information Act; to the Committee on the Judiciary.

EC–2165. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of activities under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2166. A communication from the General Counsel of the Office of National Drug Control Policy, Executive Office of the President, the annual report under the Freedom of Information Act; to the Committee on the Judiciary.

EC–2167. A communication from the Assistant Secretary of the Treasury (Management), transmitting, pursuant to law, the 1995 annual report of the Department under the Freedom of Information Act; to the Committee on the Judiciary.

EC–2168. A communication from the Archivist of the United States, transmitting, pursuant to law, the annual report under the Freedom of Information Act for the National Archives and Records Administration during 1995; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. SIMON, Mr. SPECTER, Mr. BIDEN, Mr. SIMPSON, Mr. KENNEDY, Mr. GRASSLEY, Mr. KOHL, Mr. DEWINE, Mrs. FEINSTEIN, Mr. MCCONNELL, Mr. JOHNSTON, Mr. D'AMATO, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DODD, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. PELL, Mr. SARBANES, Mr. WELLSTONE, Mr. HARKIN, Mr. WYDEN, and Mr. LAUTENBERG):

S. 1624. A bill to reauthorize the Hate Crime Statistics Act, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 1625. A bill to provide for the fair consideration of professional sports franchise relocations, and for other purposes; to the Committee on the Judiciary.

By Mr. BRYAN (for himself and Mr. REID):

S. 1626. A bill to provide for the orderly disposal of Federal lands in Southern Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. SIMON, Mr. SPECTER, Mr. BIDEN, Mr. SIMPSON, Mr. KENNEDY, Mr. GRASSLEY, Mr. KOHL, Mr. DEWINE, Mrs. FEINSTEIN, Mr. MCCONNELL, Mr. JOHNSTON, Mr. D'AMATO, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DODD, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERRY, Mr.

LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. PELL, Mr. SARBANES, Mr. WELLSTONE, Mr. HARKIN, Mr. WYDEN, and Mr. LAUTENBERG):

S. 1624. A bill to reauthorize the Hate Crime Statistics Act, and for other purposes; to the Committee on the Judiciary.

THE HATE CRIMES STATISTICS ACT REAUTHORIZATION ACT OF 1996

Mr. SARBANES. Madam President, I am pleased to join today with Senator HATCH, Senator SIMON, and others as an original cosponsor of legislation to permanently authorize the Hate Crimes Statistics Act. The Hate Crimes Statistics Act, passed overwhelmingly by Congress in 1990 and signed into law by President Bush, directs the Department of Justice to compile and publish data on crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity. The 1994 Crime Law added the requirement that data also be collected about crimes based on disability. The categories of crime for which data is collected under the act includes homicide, rape, assault, arson, vandalism, and intimidation. The law expired on December 31, 1995, and not only should be reauthorized, but should be given a permanent mandate.

Before enactment of this law, there existed no such national collection of data on hate crimes. At the time it was originally passed, this law was needed to fill the gap in information concerning the deplorable, and increasing, incidence of violent crimes based on bigotry and prejudice. Today, 6 years later, this statute remains vitally necessary.

Madam President, far too often, we hear reports of violent hate-related incidents which shock all decent people in this country. It seems inconceivable that in 1996 such crimes can still be so pervasive, but statistics collected under the law indicate that thousands of hate crimes take place each year. Therefore, it is critically important that we continue to monitor the occurrence of these crimes, in order that we may more effectively respond to them. This law has enabled a systematic collection of information about these crimes on a national basis allowing us to develop a clear picture of the problem and fashion appropriate governmental responses.

Some States, including my home State of Maryland, officially monitor the incidence of hate violence and law enforcement officials in those States have testified to the usefulness of this information. In addition, a number of private groups have done an outstanding job collecting information and pointing out the serious problem of bigotry-related crimes. In particular, I would like to recognize the work of the National Institute Against Prejudice and Violence at the University of Maryland, formed in 1984 through the efforts of former Governor of Maryland Harry Hughes and others. This fine organization has been a clearinghouse for information on hate crimes and has conducted original research and provided assistance to communities wishing to deal with the problems of hate crime violence.

However, these efforts are simply not enough. A national collection of information is vital. The 1990 act accomplished the establishment and implementation of a Federal data collection system which has proven useful and should continue.

Although the Federal Bureau of Investigation is required under the law to collect information on hate crimes, participation by State and local law enforcement agencies under the law is strictly voluntary. However, participation has increased over the time that the law has been in effect. There has been a significant effort on the local level to encourage participation in the effort and as participation increases, the information will become increasingly more helpful for purposes of identifying and examining national trends in bias-related crime and effectively responding to such crime.

Madam President, experience over the past few years has shown the act also is helpful to State and local law enforcement, both in the effort to provide training with respect to hate crimes and in the effort to identify how law enforcement agencies should direct their resources in dealing with hate crimes. An essential aspect of the effort to address the problem of hate crimes in this country is ensuring that the police have a greater awareness of hate crimes and treat such incidents with more sensitivity and understanding. The presence of more supportive and helpful law enforcement makes it more likely that hate crime victims will report these crimes, which in turn allows Federal, State, and local law enforcement to better respond.

I want to congratulate Senators SIMON and HATCH for their leadership on this important legislation and I urge my colleagues to support prompt enactment of this bill.

Mr. D'AMATO. Madam President, I am pleased to join my colleagues in introducing this bill that will extend the authority of the Attorney General to collect data on crimes motivated by race, religion, or ethnic hatred. The Act was the first action taken by Congress as a direct response to hate-motivated crimes and has certainly merited its continued existence.

When the original act was passed in 1990, the Attorney General was directed to collect data on any crime that evidenced some type of prejudice. It was the first action taken by Congress to address the violence emanating from hate crimes. The reports that have since been prepared by the Attorney General, based on the collected data, describe trends and patterns associated with hate crimes. Having this information is a great asset for Federal officials as well as State and local governments in formulating responses to the vicious behavior of perpetrators of bias crimes.

For New York, with its unique mix of people, the collection of hate crime statistics is too important to fall by the wayside. Communities in my State have begun to organize in order to respond to the incidents of hate crimes in their neighborhood. For example, residents in the town of Oyster Bay on Long Island recently met with their councilman to discuss the escalating occurrences of hate crimes. The response by citizens of my State is laudable and, I believe, must be supported by information compiled in these reports. A permanent database will assist in composing effective initiatives that will fight hate crimes.

State and local law enforcement in New York have struggled against the rising tide of hate crimes. A uniform compilation of statistics can be an asset in determining strategy, even if the participation in the collection of data is voluntary. With a better understanding of the implications and trends of hate crimes, our criminal justice system can target scarce resources to those mechanisms that work the best to combat bias crimes.

Several years ago, the Crown Heights section of Brooklyn saw a senseless violent murder of a young Rabbinical student, a crime that was seemingly motivated by religious hatred. The tension within the community mounted, culminating in days of riots and years of healing. Detecting patterns in the incidents of hate crimes may have forewarned New York City of the horrendous turmoil that was to follow the brutal murder of that young student, Yankel Rosenbaum.

If used in the right manner, statistics are a valuable tool. I hope that my colleagues recognize the need to maintain this database and urge the passage of this important legislation.

Mr. SIMON. Madam President, I rise today to join Senator HATCH in the introduction of a bill to reauthorize and provide a permanent mandate for the Hate Crimes Statistics Act. I would also like to thank Chairman HATCH for his leadership on this important issue, and for scheduling today's Senate Judiciary Committee hearing on this bill. This bill's 28 original cosponsors show the strong bipartisan support for this measure. It also has the strong support of Attorney General Reno, as well as the endorsement of major law enforcement and advocacy groups.

The Hate Crimes Statistics Act, which passed the Senate in 1990 by a vote of 92–4 and was signed into law by then President Bush, requires the Justice Department to collect data on crimes that show evidence of prejudice based on race, religion, ethnicity, or sexual orientation. Until this act was passed, no Federal records of such crimes were maintained. This lack of information made it difficult to determine whether a particular crime was an isolated incident, or part of a continuing series against a particular group.

The act has proven successful in its initial purpose—the creation of data

collection—and has also served as a catalyst for an FBI effort to train State and local law enforcement officials about hate crimes. Hearings held before the Senate Judiciary Committee's Subcommittee on the Constitution in 1992 and 1994 showed that one of the prime benefits of the act is that it has helped dramatically increase the awareness and sensitivity of the police about hate crimes. Not only do victims of hate crimes benefit from a more informed police force, but greater police awareness encourages others to report hate crimes.

Since all data submission under the act is voluntary, we did not anticipate 100 percent participation by State and local law enforcement agencies from the start. Nonetheless, over the course of 4 years, there has been great progress in participation levels. In 1991, 2,771 law enforcement agencies participated in the voluntary reporting program. In 1994, more than 7,200 agencies participated. Local police, advocacy groups, mayors, and others have joined the effort to encourage every law enforcement agency to comply, and as more and more local agencies participate, the statistics will be more and more useful to identify trends and formulate responses. In addition, the FBI is in the process of working with States to upgrade their computer systems. When this transition is complete, the data should be even more useful. Unfortunately, there are still law enforcement agencies in some States and many large cities which are not yet participating in the data collection. We need active oversight of this act to ensure that these agencies join in this important effort, making the statistics more accurate and useful.

FBI Director Louis Freeh has stated that he is committed to the continued tracking of hate crimes statistics. However, we believe that this effort has proven its usefulness and deserves a permanent mandate. Collecting such data will not erase bigotry. It will, however, be a valuable tool in the fight against prejudice. The information is essential in identifying how law enforcement should best focus its resources in dealing with hate crimes. The data will also be useful to policymakers and local communities in their efforts to fight these crimes.

Obviously, the FBI statistics do not yet accurately reflect the level of violence motivated by prejudice in our society. More and more agencies participate each year, however, we need only read the headlines and reports by advocacy groups to see how widespread the problem of hate crimes remains in our Nation.

The Justice Department recently launched a civil rights probe into a rash of arson which has destroyed at least 23 black churches in the South since 1993. The Justice Department is trying to determine whether the crimes are racially motivated, and whether they are connected. Several of the incidents have been solved, however, and clearly racism motivated the offenders. The teenagers found guilty of burning a church in Mississippi in 1993 shouted racial epithets during commission of their crime. Racist graffiti was spray-painted on the walls of a Knoxville, TN, Baptist church set afire on January 8, 1996. Sumter County Circuit Court Judge Eddie Hardaway, a black judge who sent two white men to jail for vandalizing black churches, was recently the victim of a shotgun attack which shattered bedroom windows in his home. During the 1960's civil rights movement, many black churches were set ablaze, however in the late 1980's and early 1990's only one or two such crimes were reported each year. This recent string of arson reminds us that prejudice and hate crimes remain a problem in our Nation.

Recent reports by private groups, such as the Anti-Defamation League, the National Coalition on Anti-Violence Projects, and the National Asian Pacific American Legal Consortium, confirm that unfortunately the problem of crimes based on prejudice continues. The ADL's 1995 Annual Audit of Anti-Semitic Incidents actually had some good news: the 1,843 anti-Semitic incidents reported to the Anti-Defamation League in 1995 represented a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066. This is the largest decline in 10 years. However, this good news is tempered by the seriousness of many of the incidents reported. For the fifth straight year in a row, acts of anti-Semitic harassment against individuals outnumber incidents of vandalism against institutions and other property.

The National Coalition of Anti-Violence Projects and New York City Gay and Lesbian Anti-Violence Project report similar findings for 1995. There were fewer incidents of violence against homosexuals in 1995, but the incidents were more violent. There was an 8 percent drop in the number of incidents, but a 10 percent increase in the number of assaults and rapes.

We need to realize that the name-calling, the graffiti, the discrimination, and the threats and violence are all signs of a pervasive problem. The more informed we are about the scope and nature of our communities' problems with hate crimes, the better able we will be to develop effective prevention and prosecution strategies, as well as support structures for victims of these crimes.

I am pleased to join with Senator HATCH today, with support from 28 of our colleagues, the Attorney General and law enforcement and advocacy groups across the Nation, to introduce the reauthorization of the Hate Crimes Statistics Act. I encourage all of my colleagues to join us in working to pass this important legislation.

Mr. CAMPBELL. Thank you, Mr. President, for the opportunity to address this important issue. If one needs a reminder as to why we must make the Hate Crime Statistics Act mandate permanent, one need look no further than today's headlines. Throughout the South, Federal and State authorities are investigating a rash of arson against African-American churches reminiscent of the violence perpetrated three decades earlier. In California, a native American was brutally stabbed by skinheads.

My home State of Colorado has not been immune from the scourge of hate violence. In Morrison, CO, a swastika was burned on a woman's lawn. While in Aurora, a man shot his neighbor with a BB gun because of hatred for his Asian neighbor.

In 1995, the Southern Poverty Law Center's Klanwatch Project counted 267 active hate groups in the United States including 6 in Colorado. And, in 1994, because of the passage of the Hate Crimes Statistics Act, law enforcement agencies in the United States were able to identify 5,852 hate crimes.

Hate crimes are a growing problem—one that cannot merely be measured by numbers alone. If we are going to be successful in our battle against the scourge of violent hate crime, one thing is certain—we must have hard, reliable, information about the nature and the scope of the problem.

Mr. President, this bill calls for a permanent mandate for the collection of hate crime data by the Justice Department. This important piece of legislation received broad bipartisan support and was signed into law by President Bush in 1990.

Data collection is crucial to this effort for other reasons as well. According to an article in Stanford Law & Policy Review entitled ''Bias Crime; A Theoretical and Practical Overview,'' data collection has proven to be a gateway for other important initiatives in the battle against crime. These other responses include enhanced investigative techniques, improved services for victims and the establishment of interagency coordination.

There is another important purpose to this legislation as well. It sends a strong, symbolic message that we, as a nation, will not tolerate this kind of behavior. Mr. President, I proudly cosponsor this legislation which will make the Hate Crimes Statistics Act a significant and permanent addition to our framework of anti-crime laws.

By Mr. SPECTER:

S. 1625. A bill to provide for the fair consideration of professional sports franchise relocations, and for other purposes; to the Committee on the Judiciary.

THE PROFESSIONAL SPORTS FRANCHISE RELOCATION ACT OF 1996

Mr. SPECTER. Mr. President, the purpose of my seeking recognition is to introduce legislation that would provide for an antitrust exemption for the National Football League on the subject of franchise moves, because that has become such a major problem in the United States. Note the recent move of the Cleveland

Browns to Baltimore, and previous moves of the Cardinals from St. Louis to Phoenix, of the Rams from Los Angeles to St. Louis, of the Colts from Baltimore to Indianapolis, and the tremendous dislocations that these moves have caused not only to sports fans who have a very close relationship with their team —really, America is in love with sports and it carries from the high school to the college and professional level—but to all Americans. We have recently seen the Pirates saved in the city of Pittsburgh because of the ability of professional baseball to control franchise moves, which is not possible for professional football, because baseball has a generalized exemption to the antitrust laws, whereas football does not.

This is a matter which has enormous financial implications for the cities involved. There are thousands of jobs involved in hotels, restaurants, commercial opportunities, and more than even the financial matters and the status as a big-league city. As a Senator from Pennsylvania, with major sports teams in my State, it is a matter of very, very significant importance. It first came to my attention personally in my early years in the Senate, back in 1982, when Dan Rooney, the owner of the Steelers, approached me with then-Commissioner Pete Rozelle seeking hearings in the Judiciary Committee on the then-pending move of the Raiders from Oakland to Los Angeles. Senator THURMOND, then chairman of the Judiciary Committee, scheduled those hearings. They were very important hearings, which, regrettably, did not stop the move of the Raiders from Oakland to Los Angeles. Then we have seen the Raiders move back from Los Angeles to Oakland, and it led me to introduce a series of bills, as others have, on this very important subject. These are delineated in a fuller statement, which I will have made a part of the RECORD at the conclusion of this brief presentation.

I believe, Mr. President, that legislation is necessary in this area to provide stability for professional football. It is my hope, as we move through this legislative process, that we will receive from football, as well as from baseball, for the preservation of their antitrust exemption, some consideration that will result in the avoidance of some cities putting up vast sums of money, like Baltimore is putting up some $200 million to bring the Browns to Baltimore from Cleveland, according to press reports. This antitrust exemption applies, as well, to basketball and hockey. Again, it is very important to have stability in those leagues so they can avoid dislocations and having franchises moved because of the threat of judicial holdings that the antitrust laws are violated when the league attempts to block a team from relocating.

My legislation does contain a provision that where a team moves and it leaves the city at a loss because of infrastructure changes the city has made, or contractual obligations, the moving team has to reimburse the city for its share of that public debt. This is an idea brought to me by the distinguished mayor of Pittsburgh, Mayor Tom Murphy. It is based on a resolution adopted by the Conference of Mayors. My bill also has a provision that requires that when a team moves from a city, if the league expands, that city will have the first opportunity—in effect, the right of first refusal—to be considered for an expansion team. The bill does not impose an obligation on the league, because there are many complicating factors that the league has to consider in deciding where a team should be located.

But we have seen tremendous instability in professional sports with these franchise moves. My own concern arose a long time ago when the Dodgers moved from Brooklyn to Los Angeles. I thought Los Angeles ought to have a team, but not the Dodgers. They ought to have had an expansion team. At the same time there was the move of the Giants to San Francisco from New York.

This legislation builds upon previous bills of mine, which I have specified in my longer statement. It is a part of the process, and I believe we need to have a dialog with the commissioners on the whole variety of issues confronting sports, as I have with Commissioner Tagliabue, talking about, for example, the need for multipurpose stadiums—with objections now to using the Vet in Philadelphia or Three Rivers in Pittsburgh for multiple sports—using, for example a kidney-shaped design to accommodate both football and baseball. We must try to see to it that we have stability and we do not impose enormous burdens on the taxpayers for new stadiums, but that we retain the big-league-city status of current markets that support their teams and expand the leagues, where appropriate, and find some way to stabilize professional sports with revenue sharing and salary caps to protect small-market teams. These issues raise complex matters which are yet to be worked out, but this bill is a start to addressing some of the issues facing professional football, basketball, and hockey.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Professional Sports Franchise Relocation Act of 1996''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) professional sports teams foster a strong local identity with the people of the cities and regions in which they are located, providing a source of civic pride for their supporters;

(2) professional sports teams provide employment opportunities, revenues, and a valuable form of entertainment for the cities and regions in which they are located;

(3) in many communities, there are significant public investments associated with professional sports facilities;

(4) it is in the public interest to encourage professional sports leagues to operate under policies that promote stability among their member teams and to promote the equitable resolution of disputes arising from the proposed relocation of professional sports teams; and

(5) professional sports teams travel in interstate commerce to compete, and utilize materials shipped in interstate commerce, and professional sports games are broadcast nationally.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term ''antitrust laws'' shall have the meaning given to such term in the first section of the Clayton Act (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(2) the term ''home territory'' means the geographic area within which a member team operates and plays the majority of its home games, as defined in the governing agreement or agreements of the relevant league on July 1, 1995, or upon the commencement of operations of any league after such date;

(3) the term ''interested party'' includes—

(A) any local government that has provided financial assistance, including tax abatement, to the facilities in which the team plays;

(B) a representative of the local government for the locality in which a member team's stadium or arena is located;

(C) a member team;

(D) the owner or operator of a stadium or arena of a member team; and

(E) any other affected party, as designated by the relevant league;

(4) the term ''local government'' means a city, county, parish, town, township, village, or any other general governmental unit established under State law;

(5) the terms ''member team'' and ''team'' mean any team of professional athletes—

(A) organized to play major league football, basketball, or hockey; and

(B) that is a member of a professional sports league;

(6) the term ''person'' means any individual, partnership, corporation, or unincorporated association, any combination or association thereof, or any political subdivision;

(7) the terms ''professional sports league'' and ''league'' mean an association that—

(A) is composed of 2 or more member teams;

(B) regulates the contests and exhibitions of its member teams; and

(C) has been engaged in competition in a particular sport for more than 7 years; and

(8) the terms ''stadium'' and ''arena'' mean the principal facility within which a member team plays the majority of its home games.

SEC. 4. ACTIONS AUTHORIZED.

The antitrust laws shall not apply to a professional sports league's enforcement or application of a rule authorizing the membership of the league to decide whether or not a member team of such league may be relocated.

SEC. 5. PROCEDURAL REQUIREMENTS.

(a) NOTICE.—

(1) IN GENERAL.—Any person seeking to change the home territory of a member team shall furnish notice of such proposed change not later than 210 days before the commencement of the season in which the member team is to play in such other location.

(2) REQUIREMENTS.—The notice shall—

(A) be in writing and delivered in person or by certified mail to all interested parties;

(B) be made available to the news media;

(C) be published in one or more newspapers of general circulation within the member team's home territory; and

(D) contain—

(i) an identification of the proposed new location of such member team;

(ii) a summary of the reasons for the change in home territory based on the criteria listed in subsection (b)(2); and

(iii) the date on which the proposed change would become effective.

(b) PROCEDURES.—

(1) ESTABLISHMENT.—Prior to making a decision to approve or disapprove the relocation of a member team, a professional sports league shall establish applicable rules and procedures, including criteria and factors to be considered by the league in making decisions, which shall be available upon request to any interested party.

(2) CRITERIA TO BE CONSIDERED.—The criteria and factors to be considered shall include—

(A) the extent to which fan loyalty to and support for the team has been demonstrated during the team's tenure in the community;

(B) the degree to which the team has engaged in good faith negotiations with appropriate persons concerning terms and conditions under which the team would continue to play its games in the community or elsewhere within its home territory;

(C) the degree to which the ownership or management of the team has contributed to any circumstance that might demonstrate the need for the relocation;

(D) the extent to which the team, directly or indirectly, received public financial support by means of any publicly financed playing facility, special tax treatment, or any other form of public financial support;

(E) the adequacy of the stadium or arena in which the team played its home games in the previous season, and the willingness of the stadium, arena authority, or local government to remedy any deficiencies in the facility;

(F) whether the team has incurred net operating losses, exclusive of depreciation or amortization, sufficient to threaten the continued financial viability of the team;

(G) whether any other team in the league is located in the community in which the team is located;

(H) whether the team proposes to relocate to a community in which no other team in the league is located;

(I) whether the stadium authority, if public, is opposed to the relocation; and

(J) any other criteria considered appropriate by the professional sports league.

(c) HEARINGS.—In making a determination with respect to the location of such member team's home territory, the professional sports league shall conduct a hearing at which interested parties shall be afforded an opportunity to submit written testimony and exhibits. The league shall keep a record of all such proceedings.

SEC. 6. JUDICIAL REVIEW.

(a) IN GENERAL.—A decision by a professional sports league to approve or disapprove the relocation of a member team may be reviewed in a civil action brought by an interested party subject to the limitations set forth in this section.

(b) VENUE.—

(1) IN GENERAL.—Subject to paragraph (2), an action under this section may be brought only in the United States District Court for the District of Columbia.

(2) EXCEPTION.—If the home territory of the member club or the proposed new home territory of the member club is within 50 miles of the District of Columbia, an action under this section may be brought only in the United States District Court for the Southern District of New York.

(c) TIME.—An action under this section shall be brought not later than 14 days after the formal vote of the league approving or disapproving the proposed relocation.

(d) STANDARD OF REVIEW.—Judicial review of a decision by a professional sports league to permit or not to permit the relocation of a member team shall be conducted on an expedited basis, and shall be limited to—

(1) determining whether the league complied with the procedural requirements of section 5; and

(2) determining whether, in light of the criteria and factors to be considered, the league's decision was arbitrary or capricious.

(e) REMAND.—If the reviewing court determines that the league failed to comply with the procedural requirements of section 5 or reached an arbitrary and capricious decision, it shall remand the matter for further consideration by the league. The reviewing court may grant no relief other than enjoining or approving enforcement of the league decision.

SEC. 7. MISCELLANEOUS.

(a) PAYMENT OF DEBTS.—

(1) IN GENERAL.—Any team permitted by a professional sports league to relocate its franchise to a different home territory from a publicly owned facility that remains subject to debt for construction or improvements shall pay to the facility owner, on a current basis until the retirement of that debt, its proportionate share, based upon dates of facility usage during the 12 months prior to the notice of the team's intent to relocate, of the existing debt service on such obligations.

(2) EFFECT ON EXISTING RIGHTS.—This subsection shall not affect a stadium authority's rights, if any, to seek specific enforcement of its lease or a club's rights, if any, to seek a judicial determination that its lease has been breached.

(b) COMPETITION.—Any community from which a professional sports league franchise relocates under this Act shall receive 180 days' prior notice of any league decision to expand and an opportunity to compete for such an expansion franchise on grounds no less favorable than those afforded to other communities.

SEC. 8. EFFECTIVE DATE.

This Act shall apply to any league action addressing relocation of the home territory of a member team that occurs on or after June 1, 1995, and to any lawsuit addressing such league action filed after June 1, 1995.

ADDITIONAL COSPONSORS

S. 47

At the request of Mr. SARBANES, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 47, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 295, a bill to permit labor-management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 529

At the request of Mr. GRAHAM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 529, a bill to provide, temporarily, tariff and quota treatment equivalent to that accorded to members of the North American Free Trade Agreement [NAFTA] to Caribbean Basin beneficiary countries.

S. 607

At the request of Mr. WARNER, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Tennessee [Mr. THOMPSON] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 956

At the request of Mr. AKAKA, his name was added as a cosponsor of S. 956, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 1093

At the request of Mr. REID, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1093, a bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such Act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

SENATE JOINT RESOLUTION 49

At the request of Mr. KYL, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Texas [Mrs.

HUTCHISON] were added as cosponsors of Senate Joint Resolution 49, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. THOMAS, the names of the Senator from Virginia [Mr. ROBB], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from North Dakota [Mr. DORGAN], the Senator from Idaho [Mr. CRAIG], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Nevada [Mr. BRYAN], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution expressing the sense of the Congress regarding proposed missile tests by the People's Republic of China.

AMENDMENT NO. 3511

At the request of Mr. CHAFEE his name was added as a cosponsor of Amendment No. 3511 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

AMENDMENT NO. 3513

At the request of Mr. COATS the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of Amendment No. 3513 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

AMENDMENT NO. 3520

At the request of Mr. WELLSTONE the names of the Senator from Connecticut [Mr. DODD], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Amendment No. 3520 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

At the request of Mr. CONRAD his name was added as a cosponsor of Amendment No. 3520 proposed to H.R. 3019, supra.

AMENDMENTS SUBMITTED

THE 1996 BALANCED BUDGET DOWNPAYMENT ACT, II

HATFIELD AMENDMENT NO. 3553

Mr. HATFIELD proposed an amendment to amendment No. 3466 proposed by him to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

On page 412, line 23, strike ''$497,670,001'' and insert ''$498,920,000''.

On page 412, line 24, strike ''1997,'' and insert ''1997, of which $2,000,001 shall be available for 9 activities under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533),''.

At the appropriate place insert the following:

SEC. . CONTINUED OPERATION OF AN EXISTING HYDROELECTRIC FACILITY IN MONTANA.

(a) Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act (16 U.S.C. 792 et seq.) for project numbered 1473, provided that the current licensee receives no payment or consideration for the transfer of the license a political subdivision of the State of Montana that accepts the license—

(1) shall not be required to pay such charges during the 5-year period following the date of acceptance; and

(2) after that 5-year period, and for so long as the political subdivision holds the license, shall not be required to pay such charges that exceed 100 percentum of the net revenues derived from the sale of electric power from the project.

(b) The provisions of subsection (a) shall not be effective if:

(1) a competing license application is filed within 90 days of the date of enactment of this act, or

(2) the Federal Energy Regulatory Commission issues an order within 90 days of the date of enactment of this act which makes a determination that in the absence of the reduction in charges provided by subsection (a) the license transfer will occur.

On page 577, between lines 23 and 24, insert the following new section:

SEC. . Notwithstanding any other provision of law, in the case where payment has been made by a State under title XIX of the Social Security Act between December 31, 1993, and December 31, 1995, to a State-operated psychiatric hospital for services provided directly by the hospital or by providers under contract or agreement with the hospital, and the Secretary of Health and Human Services has notified the State that the Secretary intends to defer the determination of claims for reimbursement related to such payment but for which a deferral of such claims has not been taken as of March 1, 1996, (or, if such claims have been deferred as of such date, such claims have not been disallowed by such date), the Secretary shall—

(1) if, as of the date of the enactment of this title, such claims have been formally deferred or disallowed, discontinue any such action, and if a disallowance of such claims has been taken as of such date, rescind any payment reductions effected;

(2) not initiate any deferral or disallowance proceeding related to such claims; and

(3) allow reimbursement of such claims.

At the end of the general provisions in chapter 8 (relating to the Department of Defense) of title II (relating to emergency supplemental appropriations for fiscal year 1996), add the following:

SEC. 804. (a)(1) Section 1177 of title 10, United States Code, relating to mandatory discharge or retirement of members of the Armed Forces infected with HIV–1 virus, is repealed.

(2) The table of sections at the beginning of chapter 59 of such title is amended by striking out the item relating to section 1177.

(b) Subsection (b) of section 567 of the National Defense Authorization Act for Fiscal year 1996 is repealed.

On page 754, before the heading on line 5, insert the following:

(TRANSFER OF FUNDS)

SEC. . Of the funds appropriated or otherwise made available in title IV of the Department of Defense Appropriations Act, 1996 (Public Law 104–61) under the paragraph ''RESEARCH DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE'', $44,900,000 are transferred to and merged with funds appropriated or otherwise made available under title II of that Act under the paragraph ''OPERATION AND MAINTENANCE, AIR FORCE'' and shall be available for obligation and expenditure for the operation and maintenance of 94 B–52H bomber aircraft in active status or in attrition reserve.

On page 754, before the heading on line 5, insert:

SEC. . Of the funds made available in Public Law 104–61 under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSEWIDE'', $500,000 of the funds provided for the Advanced Research Projects Agency may be available to purchase photographic technology to support research in detonation physics: *Provided*, That the Director of Defense Research and Engineering shall provide the congressional defense committees on Appropriations with a plan for the acquisition and use of this instrument no later than April 29, 1996.

On page 754, before the heading on line 5, insert:

SEC. . Of the funds made available in Public Law 104–61 under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSEWIDE'', up to $2,000,000 of the funds provided for the Joint DOD–DOE Munitions Technology Development program element shall be used to develop and test an open-architecture machine tool controller.

On page 770, after line 4 of the Committee substitute, insert the following new section:

SEC. . The Secretary shall advance emergency relief funds to the State of Missouri for the replacement in kind of the Hannibal Bridge on the Mississippi River damaged by the 1993 floods notwithstanding the provisions of section 125 of title 23, United States Code: Provided, That this provision shall be subject to the Federal Share provisions of section 120, title 123, of United States Code.

On page 643, after line 3 of the Committee substitute, insert the following new paragraph:

Of the amount made available under this heading, notwithstanding any other provision of law, $13,000,000 shall be for a grant to Watertown, South Dakota for the construction of wastewater treatment facilities.

SEC. . SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

SENSE OF THE SENATE.—It is the Sense of the Senate that the Conference on S. 1594, making Omnibus Consolidated Rescissions & Appropriations for Fiscal Year ending September 30, 1996, and for other purposes, shall find sufficient funding reductions to offset the costs of providing any federal disaster assistance.

SEC. . SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

SENSE OF THE SENATE.—It is the Sense of the Senate that Congress and the relevant committees of the Senate shall examine the manner in which federal disaster assistance is provided and develop a long-term funding plan for the budgetary treatment of any federal assistance, providing for such funds out

of existing budget allocation rather than taking the expenditures off budget and adding to the federal deficit.

SEC. None of the funds made available by this Act or any previous Act shall be expended if such expenditure would cause total fiscal year 1996 non-defense discretionary expenditures for:

Agriculture, rural development and related programs or activities contained in this or prior year Acts to exceed $13,581,000,000;

Commerce, Justice, State, the Judiciary and related programs or activities contained in this or prior year Acts to exceed $23,762,000,000;

Energy and water development programs or activities contained in this or prior year Acts to exceed $9,272,000,000;

Foreign operations programs or activities contained in this or prior year Acts to exceed $13,867,000,000;

Interior and related programs or activities contained in this or prior year Acts to exceed $13,215,000,000;

Labor, health and human services, education and related programs or activities contained in this or prior year Acts to exceed $68,565,000,000;

Transportation and related programs or activities contained in this or prior year Acts to exceed $36,756,000,000; and

Veterans Affairs, Housing and independent agencies' programs or activities contained in this or prior year Acts to exceed $74,270,000,000: *Provided,* That the President shall report to the Committees on Appropriations within 30 days of the enactment into law of this Act on the implementation of this section: *Provided further,* That no more than 50 percent of the funds appropriated or otherwise made available for obligation for non-defense programs and activities in title II—Emergency Appropriations—of this Act and containing an emergency designation shall be expended until the report mentioned in the preceding proviso is transmitted to the Committees on Appropriations.

At the appropriate place in the bill insert the following:

SECTION 1. DESIGNATION.

The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known as designated as the ''Jonathan M. Wainwright Memorial VA Medical Center.''

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in section 1 shall be deemed to be a reference to the ''Jonathan M. Wainwright Memorial VA Medical Center.''

On page 39, above the title on line 10, insert the following:

SEC. . (a) STATE COMPATIBILITY WITH FEDERAL BUREAU OF INVESTIGATION SYSTEMS.—(1) The Attorney General shall make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) USES.—The executive officer of each State shall use the funds made available under this subsection in conjunction with units of local government, other States, or combination thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(C) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(D) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall require that each person convicted of a felony of a sexual nature shall provide a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(c) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this section.

(d) ALLOCATION.—The Attorney General shall allocate the funds appropriated under subsection (e) to each State based on the following formula:

(1) .25 percent shall be allocated to each of the participating States.

(2) Of the total funds remaining after the allocation under paragraph (1), each State shall be allocated an amount that bears the same ratio to the amount of such funds as the population of such State bears to the population of all States

(3) APPROPRIATION.—$11,800,000 is appropriated to carry out the provisions in this section and shall remain available until expended.

On page 755, above the title on line 3, insert the following:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 104–107, $25,000,000 are rescinded.

SEC. . PLAN FOR ALLOCATION OF HEALTH CARE RESOURCES BY DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care facilities of the Department so as to ensure that veterans having similar economic status, eligibility priority and, or, similar medical conditions who are eligible for medical care in such facilities have similar access to such care in such facilities regardless of the region of the United States in which such veterans reside.

(2) The Plan shall reflect, to the maximum extent possible, the Veterans Integrated Service Network, as well as the Resource Planning and Management System developed by the Department of Veterans Affairs to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care, and shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goals through the plan.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

(d) PLAN IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) within 60 days of submitting such plan to Congress under subsection (b), unless within such period the Secretary notifies the appropriate Committees of Congress that such plan will not be implemented along with an explanation of why such plan will not be implemented.

On page 461, line 14, of the pending Hatfield amendment, insert the following, before the period:

'': *Provided,* That of funds available under this heading for Pacific Northwest Assistance in this or prior appropriations acts, $200,000 shall be provided to the World Forestry Center for purposes of continuing scientific research and other authorized efforts regarding the land exchange efforts in the Umpqua River Basin Region''.

On page 756, between lines 10 and 11, insert the following:

SEC. 1103. ALLOCATION OF FUNDS.

Notwithstanding any other provision of this title, funds made available under this title for emergency or disaster assistance programs of the Department of Agriculture, Department of Housing and Urban Development, Economic Development Administration, National Park Service, Small Business Administration, and United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the respective Department, Administration, or Service.

In the modification to amendment No. 3466, identified as section 3006, change the instructions to read, ''On page 754, after line 19, insert:'';

In the modification to amendment No. 3466, identified as section 3007, insert the following instructions: ''On page 754, before the heading on line 5, insert:''

In amendment No. 3510, change the instructions to read, ''On page 754, before the heading on line 5, insert:''.

At the appropriate place, insert the following new section:

SEC. . COMPOSITION OF NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 637(b)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52, 109 Stat. 509) is amended—

(1) by striking ''thirteen'' and inserting ''seventeen'', and

(2) in subparagraphs (B) and (D)—

(A) by striking ''Two'' and inserting ''Four'', and

(B) by striking ''one from private life'' and inserting ''three from private life''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996.

MCCAIN AMENDMENT NO. 3554

Mr. MCCAIN proposed an amendment to amendment No. 3553 proposed by Mr. HATFIELD to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 13, line 5 of amendment No. 3553, strike ''shall'' and insert ''may''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, March 19, 1996, to receive testimony from the unified commanders on their military strategies, operational requirements, and the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, to conduct a nominations hearing of the following nominees: Stuart E. Eizenstat, of Maryland, to be under Secretary of Commerce for International Trade; and Gaston L. Gianni, Jr. of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, March 19, 1996, session of the Senate for the purpose of conducting a hearing on oversight of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, at 10 a.m. in SD–226 to hold a hearing on ''Reauthorization of the Hate Crimes Statistics Act.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, at 9 a.m. in SH–216 to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, to hold hearings on the Asset Forfeiture Program—A Case Study of the Bicycle Club Casino.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, at 10 a.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services authorized to meet at 9 a.m. on Tuesday, March 19, 1996 in open session, to receive testimony on Department of Navy Expeditionary Warfare Programs in review of the Defense authorization request for fiscal year 1997 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

APPROPRIATIONS FOR ADULT EDUCATION AND LITERACY

● Mr. SIMON. Mr. President, last Thursday I offered an amendment to the omnibus appropriations bill to restore funding for three Federal literacy programs. The Senate will vote on this amendment tomorrow.

Adult education and literacy programs are essential to reducing welfare dependency, crime, and unemployment. Yet all Federal, State, and local public and private nonprofit literacy programs combined serve only 10 percent of those in need.

Last year, I had the pleasure of meeting with a group of new readers who had recently completed basic literacy programs. These individuals shared with me the difficulties they had faced and how learning how to read and write had changed their lives for the better. I was so struck by their stories that I contacted their Senators encouraging them to meet with their States' new readers. I do not know how many of my colleagues took me up on this offer, but I trust that those who did found this experience as informative and as inspiring as I did.

I also asked one of the women who visited me, Elaine Randall, to write out her story, as I thought it was particularly moving. She was kind enough to send it along to me. I ask that her account be printed in the RECORD.

The letter follows:

Dear Senator SIMON:

Thank you for meeting with me and the other adult learners who were in Washington for the National Institute of Literacy (NIFL) work group meeting on July 23–24. These 20 adult learners from around the country met with NIFL staff to open a dialogue on the students' views of literacy policy and practices, and to explore ways to take a more active role in shaping them.

We were chosen as participants in this NIFL student work group for our local, state, and national literacy involvement. Besides receiving adult basic education or English as a Second Language instruction, we are student leaders ''giving back''—working towards solutions. We are not the only ones out there doing this. We are only a handful of adult learners who start and lead student support groups; speak to encourage others to join a literacy program; encourage businesses to fund literacy organizations; and advise our programs on ways to improve recruitment, retention, and learning gains. These are only a few examples of the kinds of contributions students all over the country are making to ''give back'' as much as they ''get'' from the literacy field.

Each of us has worked long and hard to become contributors in the literacy field. We have been improving our basic reading and writing skills and developing our leadership abilities. This is where we are now, but it's not where we started. As non- or low-level readers, each of us has had different experiences throughout our lives. However, those experiences and the feelings and the emotions they caused were very similar.

Being able to read is expected daily in American life. Before an adult literacy program started in my area, it seemed like there was no chance for me to learn how to read. My choices in life were severely limited—I constantly guarded against being put into situations where I would have to read and write. I discovered how society mistreats those who cannot read.

While other children were learning to read and write in school, I learned early on what it meant to be illiterate in our society, and why it was important to cover it up and how to do it. By second grade all my classmates knew I was behind, which made me a target of their taunting. Kids who were friends in my neighborhood did not care to talk with me in class for fear of being called stupid—''If you talk with a dummy, you must be a dummy too.'' My best friend was older than me and didn't know I was having trouble with reading. When my third grade teacher began keeping me after school every day, to give me more time to do classwork, my best friend didn't understand why I had to stay instead of walking home with her. I couldn't tell her, because I had learned the year before what happens when people find out you can't read.

I always wanted to learn and know what other people knew, but no matter how hard I tried, I couldn't catch up. School seemed like a prison where I was being punished for not being smart enough. I wanted to drop out when I became old enough.

By the time I was in high school, I had become a master in ''school survival.'' School survival was going to school everyday, knowing no matter how hard I tried, I was still going to fail. So, I learned to balance between trying hard enough to please my teachers without excessively tormenting myself in the process. Another part of my school survival was to figure out what I would need to graduate: how many credits, which courses were the easiest, and the minimum number of academic classes I would have to take.

I realized I'd need a high school diploma in order to help cover up my illiteracy in the future—especially when it came to finding a job. I knew an employer would be less likely to suspect I couldn't read very well if I had a high school diploma. The day I graduated, I tried to read my diploma, but I could only read a few words. Nonetheless, I felt I had earned it through hard work and a lot of tears.

It was not easy to find a job that didn't require reading. My employment options were limited since I did not have a trade. I had tried taking some trade classes in high

school. I could understand the theory of what the teachers were saying, but didn't learn what I needed to know—that was in a book. I've always been a hard worker and knew if I could get my foot in the door somewhere, I would do a good job. After identifying a job in manufacturing, I still had to fill out the job application as well as read and sign forms. To this day, I don't know what I signed. I could only hope I would not do something that violated what was in those forms.

I went as far as I could in jobs with the minimum amount of reading or writing involved. My supervisors considered me a valuable employee and never suspected I had trouble reading. I felt I had the potential to do more. When a literacy program for adults started at my local library, I finally had an opportunity to get the help I needed so I could do more.

It wasn't until a few years ago that I discovered the reason why I had so much trouble learning to read and write. I have a language-based learning difference—clinically diagnosed dyslexia and attention deficit disorder. At least now I know what I'm dealing with. It was not my fault—I was smart enough. What I needed was a teaching and learning method that worked for me.

There is a difference between learning to read and reading to learn. I first needed to learn how to read and that has taken time. I've been working on my education for almost nine years and I am still taking classes two nights a week. During the same time, I have had to work to support myself. Like most adults, I do not have the luxury of going back to school full-time because I must fulfill other obligations and responsibilities.

There is no ''quick fix'' solution—two years and you're finished. It is a long process. It is one we all must agree to commit to. There are many more adults like me who, with the right help, can get better jobs and lead more productive lives. They, too, can begin to ''give back'' to the system.

Thank you for your commitment to help improve the adult literacy system. Around the country, there are many adult learners equally committed to improving the system in addition to their own education. It's great to know we have people like you working with us to make it possible for adults who cannot read, write, or speak English to get the help they need.

Sincerely,

ELAINE W. RANDALL.●

THE GAMBLING LOBBY VERSUS FRANK WOLF

● Mr. SIMON. Mr. President, Congressman FRANK WOLF is a Republican and I am a Democrat, but we have joined with Senator LUGAR and others in proposing a commission to look at where this Nation is going and the question of legalized gambling.

The most casual observer must recognize that we are headed for some problems.

I was pleased to see the editorial in the Washington Post, ''The Gambling Lobby v. Frank Wolf,'' which I ask to be printed in the RECORD at the conclusion of my remarks.

The reality is that one of the reasons the gambling lobby is so effective is the huge amounts of campaign contributions that are provided.

And, as we know from indictments and convictions across the land, the gambling gentry do not hesitate, from time to time, to get into illegal activity to promote their enterprises.

I am proud of my colleague, FRANK WOLF, for what he is doing, as I am proud of Senator RICHARD LUGAR and the other cosponsors in the Senate.

The Post editorial follows:

THE GAMBLING LOBBY V. FRANK WOLF

A funny thing is happening with the gambling issue in the House. Rep. Frank Wolf (R-Va.) has been pressing for a useful bill to create a national commission to study the economic and social impact of the spread of gambling, and the bill was making good progress. Mr. Wolf's bill has already cleared the Judiciary Committee and is supposed to go to the floor of the House in early March.

But in the interim, the bill has gone to the House Resources Committee, which claims jurisdiction because the measure affects gambling on Indian reservations. House Resources now plans another set of hearings on the bill, and Mr. Wolf is understandably worried that the hearings might be used to further delay consideration. Given the wide support the bill has—it's hard to argue against a national study of gambling's spread or to pretend there are no national implications to this trend—the danger is that the bill will be killed not directly but by endless delay and amendment.

The American Gaming Association (the gambling industry likes the 17th century drawing room sound of ''gaming'') insists that it is not opposed to a national study of gambling. But it sees the Wolf bill, as written, as just the first step in an effort by Congress to impose some federal rules on an industry that has so far been largely regulated by the states. It also complains that the commission as set up in the Wolf bill now has no representation from state officials (governors or legislators), even though one of the main purposes of the committee is to provide more objective information to local officials than they usually get from the gambling industry.

These objections strike us mostly as clever ways for the industry to gum up the progress of useful legislation. In particular, it would be foolish to limit the commission's mandate. With the spread of gambling—especially to Indian reservations, whose casinos have ways around state regulation—there may well be a case for some national rules. If any event, it's certainly an issue the commission should debate.

The gambling industry has a great deal of money, has been making large campaign contributions and recently hired some of Washington's most influential lobbyists. We have no doubt that the industry can bring a lot of pressure against Mr. Wolf's bill and construct some ingenious stratagems to weaken it. The issue is whether the House leadership will play along, mouthing kind words about Mr. Wolf's efforts while trying to undermine them. The leaders should not play that game. They should keep the promise and let an undiluted version of the Wolf bill go to the floor on schedule.●

MAIL BALLOT VOTING

● Mr. SIMON. Mr. President, I suppose there is no columnist whose writings I read, and with whom I agree more consistently, than Carl Rowan.

And his recent column about the mail voting experiment in Oregon is no exception.

Every move forward to enlarging the voter franchise has been resisted. That includes giving voting rights to African-Americans, native Americans and to American women.

And the secret ballot which we prize so much today was not part of our early history.

We have gradually made improvements, despite the objections of many people who were wedded to the status-quo.

I do not suggest that on the basis of the Oregon experiment, we should nationally move to mail voting yet, but I would like to see several States try it, because my instinct is that it is likely to be an improvement over the present system.

I ask that the Carl Rowan column be printed in the RECORD.

The column follows:

A KNOCK AT MAIL BALLOTS IS A KNOCK AT DEMOCRACY

(By Carl Rowan)

The political mentalities of the 1770s and 1950s are bursting out all over now that Oregon has had a successful mail ballot to fill the seat of disgraced Sen. Bob Packwood.

I hear cries that the mail ballot cheapened the election, robbing the vote of the sacred majesty that the framers of our government intended.

I hear complaints that the mail ballot permitted uneducated people ''who don't even know the names of their congressmen'' to vote.

We're told that it allowed all people to vote without expending the small amount of energy and sacrifice of going to a neighborhood polling place, undermining the notion that ''the vote is a precious thing.''

This is swallowed by some as the sentimentality of patriotism, but it is, in fact, undemocratic gibberish that ought not override the fact that the Oregon election lifted the percentage of voters to about 65 percent of those eligible, a figure that made democratic participation almost as high as in European countries. It saved Oregon about $1 million. And it produced results that any Republican could applaud.

So we are to deplore this election as a violation of what ''the framers'' intended? I remember that the framers counted black citizens as three-fifths of a vote. And women as zero percent of a vote. Naturally, neither I nor my wife is much impressed by a reminder of what the framers believed about the semi-slave status of African-American males, or women.

The framers created a situation under which many states could decree that only the propertied could vote. When that idea and ''poll tax'' requirements were beaten down, polling places were located where millions of poor, ill minority citizens could not get to because they lacked transportation or couldn't leave their jobs.

Nothing in a neighborhood polling place could be more sacred to deprived citizens than casting their first ballot—primarily because the mail ballot allowed them to do so.

So spare me this balderdash about how this country must return to a respect for what ''the framers'' intended!

I find especially offensive the complaints that mail ballots were cast by ''uninformed, uneducated'' citizens. In the 1950s some states had laws requiring ''literacy tests'' for those seeking to vote. That was implemented in ways where white registrars could deny the ballot to blacks who couldn't answer ''correctly'' such questions as ''How many bubbles in a bar of soap?''

Everyone I've heard deploring the mail ballot would be incensed if anyone accused

them of harboring the racist and sexist views of the framers. Yet they peddle those views almost mindlessly.

We either treasure democracy or we don't. If we do, the more of it the better. So I say of the Motor Voter law and mail ballot: ''Welcome and hooray!''●

SENATOR COHEN: WHY I AM LEAVING

● Mr. SIMON. Mr. President, I received a note in the mail from Marion Plancon of Staten Island, NY, and she enclosed an op-ed piece written by our colleague, Senator WILLIAM COHEN, for the Los Angeles Times.

Somehow I missed seeing the original publication of it.

But I have found through the years on the Senate floor and with my service with him in the House, that our colleague, BILL COHEN usually makes sense.

And his call for greater civility, less hostility, more reason, and less shouting is a call that should be heeded in this body, and also by the American public.

I wish that the extremes of partisanship and hostility were only in the House and Senate or only between the administration and Congress.

Unfortunately, we do reflect the American public sometimes more than we should.

We should be a reconciling force, and I fear that we are not.

I ask that the WILLIAM COHEN op-ed piece be printed in the RECORD.

The column follows:

[From the Los Angeles Times]

WHY I AM LEAVING

(By William S. Cohen)

Last week, I announced that I would not seek reelection to the Senate for a fourth term. I have been moved by the reaction of my constituents and colleagues. Many expressed sadness over my decision, and nearly all were perplexed. Why are so many leaving the Senate? How can the center hold? Won't the system fall apart?

It is not a case, to continue with Yeats's words, ''that the best lack all conviction while the worst are full of passionate intensity.''

Such a poetic construct presumes too much and maligns the character and capabilities of those who have most recently arrived in Congress and those who have chosen to remain.

Those of us leaving the Senate do so for unique and deeply personal reasons. I suspect, however, that we share a common level of frustration over the absence of political accord and the increase in personal hostilities that now permeate our system and our society.

Increasingly, public officials face: Too little time to reason and reflect; the hair-trigger presumption of guilt pulled at the slightest whisper of impropriety; the schizophrenia of a public that wants less government spending, more government services and lower taxes, and the unyielding demands of proliferating single-issue constituencies.

Too many hours are devoted to endless motion without movement, interminable debate without decision and rhetorical finger-pointing without practical problem-solving.

Our republic, we know, was designed to be slow-moving and deliberative. Our Founding Fathers were convinced that power had to be entrusted to someone, but that no one could be entirely trusted with power. They devised a brilliant system of checks and balances to prevent the tyranny of the many by the few. They constructed a perfect triangle of allocated and checked power, Euclidean in symmetry and balance. There could be no rash action, no rush to judgment, no legislative mob rule, no unrestrained chief executive.

The difficulty with this diffusion of power in today's cyberspace age is that everyone is in check, but no one is in charge.

But more than the constitutional separation of powers is leading to the unprecedented stalemate that exists today. There has been a breakdown in civil debate and discourse. Enmity at times has become so intense that members of Congress have resorted to shoving matches outside the legislative chambers. The Russian Duma, it seems, is slouching its way toward the Potomac as debate gives way to diatribe.

We are witnessing a gravitational pull away from center-based politics to the extremes on both the right and left. Those who seek compromise and consensus are depicted with scorn as a ''mushy middle'' that is weak and unprincipled. By contrast, those who plant their feet in the concrete of ideological absolutism are heralded as heroic defenders of truth, justice and the American way.

The departure of centrists from party ranks may be cheered by ideologues in the short term. But unless the American people are willing to embrace one party dominance and governance for extended periods (or turn to the British parliamentary model, which I don't recommend), then elements within the liberal and conservative factions will necessarily move back to the center, toward compromise and, yes, consensus.

The American people are experiencing a great deal of anger and anxiety at this time. The stern virtues of self-discipline and fiscal prudence have given way to the soft vices of mindless consumption and selfish gratification. We are now paying for the wages of our sins, and ironically, our citizens are angry with political leaders who have indulged their appetites, purchased their votes and passed the bills to the next generation. The road to fiscal solvency and sanity will not be easy, and it surely will not be paved with the bloated promises of blandishments of political extremists.

I have devoted nearly a quarter of a century to public service and a search for common ground in a society that is growing in complexity and diversity. Although I have decided to enter the private world to pursue new challenges and opportunities, I remain convinced that the American political system will pass through this transitional phase in our history and return to the center, the place where most people live and a democracy functions best.●

JAMES THOMAS VALVANO

● Mr. MOYNIHAN. Mr. President, March 10, 1996, marked what would have been James Thomas Valvano's 50th birthday. It has been almost 3 years since the Queens, NY, native lost a rather public battle with cancer. The intent here, however, is not to eulogize. And any attempt to do so would pale in comparison to the impassioned eloquence of that offered on this floor by my distinguished friend and colleague from North Carolina, Mr. HELMS on April 28, 1993. I did not know Jim Valvano—barely knew of him. But I am aware of the good work done by the foundation he founded in the final weeks of his life.

On March 4, 1993, Jim Valvano was awarded the inaugural ESPN Arthur Ashe Award for Courage at the American Sports Awards. In an acceptance speech that was widely noted and shall long be remembered, he announced the creation of the V Foundation for Cancer Research. With a Churchillian stoutness of spirit, Valvano set forth the mission:

It may not save my life. It may save my children's lives. It may save someone you love. . . . [I]t's motto is, ''Don't give up, don't ever give up.'' That's what I'm going to do every minute that I have left . . . so that someone else might survive, might prosper and might actually be cured of this dreaded disease. . . . I'm going to work as hard as I can for cancer research and hopefully, maybe, we'll have some cures and some breakthroughs.

Since that night the V Foundation has raised more than $2.3 million for that mission. Here are just some of the organizations and programs to which the V Foundation has contributed: $250,000 to fund a national public awareness campaign through the NCCR [National Coalition of Cancer Researchers]; $100,000 to fund Dr. Gerold Bepler at Duke Comprehensive Cancer Center; $100,000 to fund a 2-year grant for Dr. Phil Hochhauser at Memorial Sloan-Kettering Cancer Center in New York; $100,000 to the UNC Lineberger Cancer Center for construction of the Jim Valvano Cancer Research Lab; $100,000 to fund Dr. Leland Powell at the University of California at San Diego; $100,000 to fund the research of Dr. Thomas Gajewski at the University of Chicago Comprehensive Cancer Center; $29,000 to the Kosair Children's Hospital in Louisville, KY, for the construction of the Angela Valvano Classroom.

Any basketball coach who carried a collection of Emily Dickinson poems in his gym bag and quoted Edna St. Vincent Millay and Ralph Waldo Emerson to sports reporters most certainly knew the impermanence of athletic achievements. Records are broken, victory banners fade, championship rings tarnish. But when all of these are long forgot, James Thomas Valvano will be remembered to the beneficiaries of the foundation that bears his name. And through them, to us all.

Mr. President, I ask that the entire text of Jim Valvano's remarks at the 1993 ESPN Awards be printed in the RECORD.

The remarks follow:

Thank you. Thank you very much. Thank you. That's the lowest I've ever seen Dick Vitale since the owner of the Detroit Pistons called him in and told him he should go into broadcasting.

I can't tell you what an honor it is, to even be mentioned in the same breath with Arthur Ashe. This is something I certainly will treasure forever. But, as it said on the tape, and I also don't have one of those things going with the cue cards, so I'm going to speak longer than anybody else has spoken tonight. That's the way it goes. Time is very precious to me. I don't know how much I

have left and I have some things that I would like to say. Hopefully, at the end, I will have something that will be important to other people, too.

But, I can't help it. Now I'm fighting cancer, everybody knows that. People ask me all the time about how you go through your life and how's your day, and nothing is changed for me. As Dick said, I'm a very emotional and passionate man. I can't help it. That's being the son of Rocco and Angelina Valvano. It comes with the territory. We hug, we kiss, we love.

When people say to me how do you get through life or each day, it's the same thing. To me, there are three things we all should do every day. We should do this every day of our lives. Number one is laugh. You should laugh every day. Number two is think. You should spend some time in thought. Number three is, you should have your emotions moved to tears, could be happiness or joy. But think about it. If you laugh, you think and you cry, that's a full day. That's a heck of a day. You do that seven days a week, you're going to have something special.

I rode on the plane up today with Mike Krzyzewski, my good friend and a wonderful coach. People don't realize he's 10 times a better person than he is a coach, and we know he's a great coach. He's meant a lot to me in these last 5 or 6 months with my battle. But when I look at Mike, I think, we compete against each other as players. I coached against him for 15 years, and I always have to think about what's important in life to me are these three things. Where you started, where you are and where you're going to be. Those are the three things that I try to do every day. When I think about getting up and giving a speech, I can't help it. I have to remember the first speech I ever gave.

I was coaching at Rutgers University, that was my first job, oh, that's wonderful [reaction to applause], and I was the freshmen coach. That's when freshmen played on freshmen teams, and I was so fired up about my first job. I see Lou Holtz here. Coach Holtz, who doesn't like the very first job you had? The very first time you stood in the lockerroom to give a pep talk. That's a special place, the lockerroom, for a coach to give a talk.

So my idol as a coach was Vince Lombardi, and I read this book called ''Commitment to Excellence'' by Vince Lombardi. And in the book, Lombardi talked about the first time he spoke before his Green Bay Packers team in the lockerroom, and they were perennial losers. I'm reading this and Lombardi said he was thinking should it be a long talk, a short talk? But he wanted to be emotional, so it would be brief. So here's what I did. Normally you get in the lockerroom, I don't know, 25 minutes, a half hour before the team takes the field, you do your little X and O's, and then you give the great Knute Rockne talk.

We all do. Speech No. 84. You pull them right out, you get ready. You get your squad ready. Well, this is the first one I ever gave and I read this thing, Lombardi, what he said was he didn't go in, he waited. His team was wondering where is he? Where is this great coach? He's not there. Ten minutes he's still not there. Three minutes before they could take the field Lombardi comes in, bangs the door open, and I think you all remember what great presence he had, great presence. He walked in and he walked back and forth, like this, just walked, staring at the players. He said, ''All eyes on me.''

I'm reading this in this book. I'm getting this picture of Lombardi before his first game and he said, ''Gentlemen, we will be successful this year, if you can focus on three things, and three things only. Your family, your religion and the Green Bay Packers.'' They knocked the walls down and the rest was history. I said, that's beautiful. I'm going to do that. Your family, your religion and Rutgers basketball. That's it. I had it. Listen, I'm 21 years old. The kids I'm coaching are 19, and I'm going to be the greatest coach in the world, the next Lombardi.

I'm practicing outside of the lockerroom and the managers tell me you got to go in. Not yet, not yet, family, religion, Rutgers basketball. All eyes on me. I got it, I got it. Then finally he said, 3 minutes, I said fine. True story. I go to knock the doors open just like Lombardi. Boom! They don't open. I almost broke my arm. Now I was down, the players were looking. Help the coach out, help me out. Now I did like Lombardi, I walked back and forth, and I was going like that with my arm getting the feeling back in. Finally I said, ''Gentlemen, all eyes on me.'' These kids wanted to play, they're 19. ''Let's go,'' I said. ''Gentlemen, we'll be successful this year if you can focus on three things, and three things only. Your family, your religion and the Green Bay Packers. I told them. I did that. I remember that. I remember where I came from.

It's so important to know where you are. I know where I am right now. How do you go from where you are to where you want to be? I think you have to have an enthusiasm for life. You have to have a dream, a goal. You have to be willing to work for it.

I talked about my family, my family's so important. People think I have courage. The courage in my family are my wife Pam, my three daughters, here, Nicole, Jamie, LeeAnn, my mom, who's right here, too. That screen is flashing up there ''30 seconds'' like I care about that screen right now, huh? I got tumors all over my body. I'm worried about some guy in the back going 30 seconds? You got a lot, hey va fa napoli, buddy. You got a lot.

I just got one last thing, I urge all of you, all of you, to enjoy your life, the precious moments you have. To spend each day with some laughter and some thought, to get your emotions going. To be enthusiastic every day and Ralph Waldo Emerson said, ''Nothing great could be accomplished without enthusiasm,'' to keep your dreams alive in spite of problems whatever you have. The ability to be able to work hard for your dreams to come true, to become a reality.

Now I look at where I am now and I know what I want to do. What I would like to be able to do is spend whatever time I have left and to give, and maybe, some, some hope to others. Arthur Ashe Foundation is a wonderful thing, and AIDS, the amount of money pouring in for AIDS is not enough, but is significant. But if I told you it's 10 times the amount that goes in for cancer research. I also told you that 500,000 people will die this year of cancer. I also tell you that one in every four will be afflicted with this disease, and yet somehow, we seem to have put it in a little bit of the background. I want to bring it back on the front table.

We need your help. I need your help. We need money for research. It may not save my life. I may save my children's lives. It may save someone you love, and ESPN has been so kind to support me in this endeavor and allow me to announce tonight, that with ESPN's support, which means what? Their money and their dollars and their helping me, we are starting the Jimmy V Foundation for cancer research. And its motto is, ''Don't give up, don't ever give up.'' That's what I'm going to do every minute that I have left.

I will thank God for the day and the moment I have. If you see me, smile and give me a hug. That's important to me, too. But try if you can to support, whether it's AIDS or the cancer foundation, so that someone else might survive, might prosper and might actually be cured of this dreaded disease.

I can't thank ESPN enough for allowing this to happen. I'm going to work as hard as I can for cancer research and hopefully, maybe, we'll have some cures and some breakthroughs. I'd like to think, I'm going to fight my brains out to be back here again next year for the Arthur Ashe recipient. I want to give it next year!

I know I gotta go, I gotta go, and I got one last thing and I've said it before and I want to say it again. Cancer can take away all my physical abilities. It cannot touch my mind, it cannot touch my heart and it cannot touch my soul. And those three things are going to carry on forever.

I thank you and God bless you all.●

EVERY MAN A PETER LYNCH

● Mr. SIMON. Mr. President, one of the more informative journals that I read is one called Grant's Interest Rate Observer. It contains information that I find in no other journal.

James Grant, the publisher and editor, also makes observations about a variety of things, and recently he had comments on the suggestion that part of the Social Security fund be invested in the stock market.

Before people start chasing this rainbow, it would be good to read his thoughtful observations which I ask to be printed in full in the RECORD.

The article follows.

[From Grant's Interest Rate Observer, Mar. 1, 1996]

EVERY MAN A PETER LYNCH

In the Nixon years, it was said triumphantly that only a Republican could have opened China. Perhaps the Clinton administration believes that only a Democrat can open Wall Street. On February 17, The New York Times disclosed that a federal advsisory panel will recommend an epochal change in Social Security policy; investing billions of dollars of payroll taxes in the stock market.

For now, of course, the Social Security Trust Fund holds only Treasury securities, $483 billion's worth at last report. In fiscal 1994, $381 billion, in round numbers, was paid into Social Security (via payroll taxes, from employers and employees combined), and $323 billion was paid out. The Treasury issued special, non-negotiable, interest-bearing claims to the Social Security Trust Fund to acknowledge receipt of the difference. The difference, $58 billion, was ''invested'' only in the sense that it wasn't actually stolen. It was spent. (A Mexican official once told the British journalist James Morgan, apropos of government ''investment'': ''Senõr, the money that was stolen was invested better than the money that was invested.'')

In 1974, the Social Security System was consolidated for accounting purposes into the unified federal budget. In effect, a Social Security surplus (such as the nation currently, and temporarily, enjoys) works to reduce the reported federal deficit; a shortfall tends to expand it. It follows that any redeployment of Social Security assets into the stock market would force an identical increase in federal borrowing. So also, a diversion of an individual's payroll taxes into an earmarked equity investment account would force a corresponding rise in federal borrowing—other things being the same.

However, it is always possible that other things would not be the same. Things could

improve. A revitalized private sector might generate more tax revenue than even the government could spend, or investment returns might beggar even those of the past five years, causing the much feared $11 trillion unfunded Social Security liability (the difference between the present value of promised benefits and the present value of projected taxes) to melt away like the much feared banking calamity of 1990–91. How often have free markets made short work of allegedly intractable political or economic problems? Often enough, in our experience.

Yet, to us, the heart of the Social Security trial balloon was contained in the Times story's perceptive third paragraph: ''Such discussions would have been unthinkable just a few years ago,'' and in a quotation from the chairman of the Clinton study group, Edward M. Gramlich, professor of economics and dean of the School of Public Policy at the University of Michigan, a few paragraphs below that: ''Stocks have outperformed bonds by a singificant margin over long periods of time.''

Did anyone in public life remember to put in a good word for stocks at the bottom of the 1969–74 bear market, or on the Tuesday following Black Monday in October 1987? According to the Times, the draft of the report by the Advisory Council on Social Security puts on a brave, bull-market face: ''While stock investments would entail 'a slight increase' in risk for Social Security,'' the paper relates, ''the risk would be manageable.'' And another panel member boldly affirmed: ''Beyond the floor of protection provided by Social Security, we should let people participate fully in this economic miracle that we call America.'' Will the panelist's economic patriotism be just as intense during the next cyclical downswing, we wonder, or will it be subject to revision?

It is almost certainly no accident that the Social Security investment plan came into the world at the same time as Dow 5,500. According to James A. Bianco, Arbor Trading Group, Barrington, Ill., the capitalization of the U.S. stock market at year-end 1995 stood at 87.5% of GDP, the highest such percentage in history. ''Likewise,'' Bianco went on, ''the size of available cash, or M–2, to the size of the stock market is the lowest in history at 57.1%. What this suggests is that the stock market is grossly overvalued.'' Enthusiasts for what would boil down to the greatest bond-for-stock swap in the history of the republic have thought of everything except what the stocks would be worth.●

ADULT EDUCATION FOR FAMILY LITERACY

● Mr. SIMON. Mr. President, a former valued staff member of mine who is now working with the National Institute for Literacy, Alice Johnson, sent me an article that appeared in the magazine, Adult Learning. It is titled, Adult Education for Family Literacy by Thomas G. Sticht, President of the Applied Behavioral and Cognitive Sciences Company in El Cajon, CA. In the midst of budget cutting I hope we will not be short-sighted on this matter of literacy.

There has been a great deal of talk about the growing disparity between the top one-fifth of our population and the lower one-fifth of our population in terms of income.

One of the most effective ways of lifting the lot of the bottom one fifth is to make sure that they have the basic skills that are needed in our society, and that certainly includes reading. There is no single magic bullet for solving this problem. It is a mosaic with many pieces. But literacy is one of the pieces.

The article points out that when we educate adults better, they then feel comfortable in schools and demand and get better education for their children.

Two years ago, I visited 18 schools in the impoverished areas of Chicago and one of the things I heard from teachers over and over was that they wished they had more parental involvement, but frequently the parents do not feel comfortable coming into a school situation because they cannot read and write.

If we diminish our future by cutting back on literacy funding everyone loses.

I urge my colleagues to read the article by Thomas Sticht which I ask to be printed in the RECORD.

The article follows:

[From Adult Learning, November/December 1995]

ADULT EDUCATION FOR FAMILY LITERACY

(By Thomas G. Sticht)

For nearly a half century, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) has led a worldwide movement to promote the development of literacy programs for adults and primary education for children. Many successes have been documented in both of these programs. Over the last quarter century, the rate of literacy among the earth's adults has declined, but because of population growth, the absolute numbers of illiterate adults continued to grow. However, at the outset of International Literacy Year in 1990, both the rate and the absolute numbers of adult illiterates had declined. Still, there were an estimated 921 million adult illiterates in the underdeveloped nations of the world, and some 42 million low literates in developed nations.

Paralleling the growth of adult literacy education in the world, there has been an increase in the numbers of children enrolled in primary education. Over the last four decades enrollments in underdeveloped nations' primary schools rose from about one-third to over seventy percent of primary aged children. Yet, at the beginning of International Literacy Year in 1990, UNESCO estimated that in developing countries as a whole, some 386 million children and young adults aged from six to seventeen years would not be attending school. They are in a trajectory toward beginning the next generation of illiterate adults.

FAMILY LITERACY

In 1994, the International Year of the Family signaled a new direction for adult and childhood literacy programs worldwide, one that unites adults' literacy and children's primary education. Taking stock of research and experience over the last half century, the United Nations noted that:

The family constitutes a context of informal education, a base from which members seek formal education, and should provide a supportive environment for learning. Literacy has a dramatic effect on the dissemination of ideas and the ability of families to adopt new approaches, technologies and forms of organization conducive to positive social change. Often affected by early school leaving or dropping out, literacy is a prime conditioner of the ability of families to adapt, survive and even thrive in rapidly changing circumstances. Attention should also be given to promoting equal opportunities for girls and young women.

Whereas in the past, there has been tacit recognition of the importance of the literacy education of adults as a key factor in promoting the attendance of children in primary education, the United Nations' statement makes clear that, rather than being regarded as a secondary institution to the schools as educational agents, the family is each society's first and most basic educational institution.

There is evidence to suggest that as developing nations move toward the educational and economic status of industrialized nations, the family will play a greater role in the educational achievement of children. Studies of twenty-nine developing and industrialized nations examined the relative contributions of school quality (e.g., number and quality of textbooks, teacher's educational preparation) versus family background factors (e.g., parents' education levels) on children's achievement in science education. The research revealed that, as nations moved from being less to more developed, the quality of schools diminished as the primary determinant of science achievement, and the influence of family background factors increased. For instance, in India, school quality accounted for ninety percent and home factors only ten percent of the children's variation in science achievement. In Australia, on the other hand, school quality accounted for only twenty percent and home factors eighty percent of the variation in science achievement.

FAMILY LITERACY PROGRAMS

The family literacy concept makes explicit what has generally been implicitly understood, and recognizes the family as an institution for education and learning, and the role of parents as their children's first teachers. The starting point for the development of human resources within a culture is the family. Families provide an intergenerational transfer of language, thought, and values to the minds of their newborn infants and throughout the formative years of their children's lives. Families provide initial guidance in learning to use the cultural tools that will be valued and rewarded within the culture. Families interpret the culture for their children and they mediate the understanding, use, and value placed on the cultural tools for learning and education, of which the capstone tools are language and literacy.

This recognition of the intergenerational role that parents play as family educators places a much higher premium on the importance of adult education than has traditionally been accorded. Up to now adult literacy education programs have generally aimed at making adults literate while the business of making the adults' children literate has been left to the formal school system. Under the family literacy concept, however, it is now recognized that, due to the intergenerational transfer of cognitive skills, including language and literacy, an investment in the literacy education of adults provides ''double duty dollars.'' It improves the educational level of adults and simultaneously improves the educability and school success of the adults' children.

Family literacy programs differ from traditional adult literacy programs in that they are designed to maximize the probability that adults who receive literacy education will actually succeed in transferring aspects of their new beliefs, attitudes, knowledge, and skills intergenerationally to their children.

THE CENTRALITY OF ADULT EDUCATION TO NATIONAL DEVELOPMENT GOALS

In most nations, adult education occupies a tertiary position to the formal schooling of

children. However, as noted above, evidence now exists to suggest that adult education, and particularly literacy education for present and potential parents, should occupy a central position in all governments' educational planning. Four interrelated reasons for nations to support greater investments in adult education are summarized below.

1. Better Educated Adults Are More Productive for Society. Supervisors in six manufacturing companies near Chicago reported that adult literacy programs made improvements in job training, job performance, promotability of participants, and productivity, such as scrap reduction, reduced paperwork, and less wastage. Other research found that more literate workers who actually use their literacy skills at work may increase their productivity as much as ten to fifteen percent. Adult literacy education improves work today, reforming schools for children takes decades.

2. Better Educated Adults Provide Better Communities for Learning. At AC Rochester, a supplier of components for General Motors automobile manufacturing in New York State, management, labor union members, and educators got together, and provided adult literacy programs for employees. This helped increase the local tax base for community services by bringing in several new contracts, including a billion dollar contract with Russia.

3. Better Educated Adults Demand and Get Better Schooling for Children. Wider Opportunities for Women in Washington, DC, found that mothers in women's literacy programs spent more time with their children talking about school, helping them with their homework, taking them to the library, and reading to them. They also said they spent more time going to and helping with school activities, they talked more with teachers about their children's education, their children attended school more, showed improvements in their school grades, test scores, and reading.

4. Better Educated Adults Produce Better Educated Children. Better educated parents send children to school better prepared to learn, with higher levels of language skills, and knowledge about books, pencils, and other literacy tools needed for school and life. Better educated mothers have healthier babies, smaller families, children better prepared to start school, and children who stay in school and learn more.

MAKE EVERY ADULT BASIC EDUCATION CLASS A FAMILY LITERACY CLASS

The San Diego Consortium for Workforce Education and Lifelong Learning (CWELL) operates an Action Research Center (ARC) in the San Diego Community College District, Continuing Education Division. In 1994, the ARC initiated research orchestrated around the theme, ''make every adult basic education class a family literacy class.'' The research included the publication of a simple rating scale in one issue of the Community Exchange, the newspaper that the ARC publishes to disseminate R&D information into the ARC community.

The rating scale asks adults to rate how frequently they perform various parenting activities such as reading to their children, taking them to the library, helping with homework and so forth. A tabulation of responses from 131 adults in five different adult basic education and English as a Second Language (ESL) programs indicated that adults vary greatly in how often they engage in these kinds of activities that can help transfer literacy to their children. These data provide a baseline for comparing parenting activities before the ARC introduces activities to ''make every adult education class a family literacy class.''

With sound evaluation of these programs, it should be possible to demonstrate that ''double duty dollars'' can be obtained through the intergenerational transfer of literacy that takes place in adult basic skills education programs. Governments and other sponsors of education programs should know that they can obtain multiplier effects for their investments in adult basic education. They should know that by investing in the education of adults, they can improve the education of children.●

ARAFAT MUST STIFLE EXTREMISTS

● Mr. SIMON. Mr. President, all of us have been stunned by the suicidal missions of extremist in Israel.

And it is the hope of most people around the world, as well as in the Middle East, that the extremists should not prevail and scuttle the peace process.

I was particularly pleased to read in the Chicago Tribune as well as the New York Times, the letter of Ray Hanania, President of the Palestinian American Congress, which I ask to be printed in the RECORD. Mr Hanania is calling on Yasser Arafat to crack down on the extremists.

People of good will of every persuasion should join in this endeavor.

The article follows:

[From the Chicago Tribune]

ARAFAT MUST STIFLE EXTREMISTS

(By Ray Hanania)

CHICAGO.—The Israelis are right about one thing: It is the responsibility of Yasser Arafat, president of the Palestinian Authority, to crack down on extremists who are based in the territories that he controls.

It is not an easy decision to make, but it is one that Arafat must make if the Middle East peace process is to succeed and Palestinians are to have their own state.

Arafat must come to grips with the responsibilities of Democratic leadership. This is no longer a revolution in which internal criticism is hushed for the sake of survival.

While he must learn to tolerate criticism and not jail Palestinian journalists who attack his policies, so too must he learn to be more forceful with those who challenge the foundation of Palestinian democracy.

Palestine is democratic. And Arafat's election is founded on democracy. Democracy requires that leaders no longer need to seek unanimity to justify their actions. Quite the contrary, democracy allows leaders to do what they could not do before—make decisions with the slimmest of majorities.

Realizing that he can never make everyone, especially the extremists, happy with any decision he makes is a necessity if he and the Palestinian people are to survive as a nation.

It is a realization he has yet to come to grips with. And when he does, he will discover that the vast majority of Palestinians support a crackdown but fear public expression of this view. The extremists have and will use violence against their own people to justify their means and achieve their goals.

Our leaders need courage to change this.

In the United States, the Palestinian-American community has spoken loudly, favoring the peace process. While we, as a community, may not totally agree with every detail, the principle of pursuing a peaceful resolution of the Israel-Palestine question is now a mandate for our people.

Arafat cannot make the mistake of believing that he can walk between the moderates and those who advocate violence. The extremists that he must silence are the very same people who, if given the chance, would silence Palestinian democracy and destroy any hopes of establishing a democratic Palestinian state.●

VALLEY HAVEN SCHOOL 20TH ANNIVERSARY HIKE/BIKE/RUN

● Mr. SHELBY. Mr. President, I wish to take a moment and bring to my colleagues' attention the 20th anniversary of the Valley Haven School Hike/Bike/Run. The Valley Haven School, located in Valley, AL, is a school for mentally retarded and multiple handicapped citizens of all ages. Started 37 years ago by volunteers, the school is now professionally staffed and currently offers skilled training to 95 students ranging in age from 3 months to 60 years.

Mr. President, local moneys of $100,000 must be raised each year to meet operating expenses and match State and Federal grants. The primary source of these funds is the annual Hike/Bike/Run, which consists of a 5 or 10 mile walk, an 11 or 22 mile bike ride, a skate-a-thon, a 1, 3.1, or 6.2 mile run, a 5 mile bike ride for children, and the Trike Trek for preschoolers.

Each participant in the Hike/Bike/Run obtains pledges for their participation, and all proceeds go directly to Valley Haven to support the education and training for handicapped students. In 1995, this 1 day fundraiser involved over 1,000 participants and 8,000 pledging sponsors. The event generated over $100,000 in pledges to support the work of the school.

Mr. President, I would like to congratulate and commend Valley Haven and the entire Valley community for displaying such strong support and concern for these special students. This year's Hike/Bike/Run will be held on Saturday, May 4, and I know that the community will once again unite to support this wonderful program and help Valley Haven School help its students.●

LITHUANIAN INDEPENDENCE

● Mr. LEVIN. Mr. President, I rise to honor the 78th anniversary of Lithuania's independence in 1918. This should be a time for remembrance and renewal. It evokes memories of great sadness and also great joy. The long night of Soviet domination and occupation has given way to a new beginning for the Lithuanian people. It is heartening to the world to see that Lithuania's strong and vibrant culture has survived the many years of Soviet control.

Lithuania showed its commitment to joining the free world when it was the first country from the former Soviet Union to formally join the Partnership for Peace in 1994. The faith and courage of the Lithuanian people and the undying efforts and support for Lithuanian independence of Lithuanian-Americans has the respect and admiration of

peace-loving people throughout the world. I know that my Senate colleagues join me in honoring Lithuania's independence.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair on behalf of the Vice President, pursuant to 22 U.S.C. section 276h through 276k, appoints the Senator from Texas [Mrs. HUTCHISON] as the chairman of the Senate delegation to the Mexico-United States Interparliamentary Union during the second session of the 104th Congress.

UNANIMOUS-CONSENT AGREEMENT—CLOTURE VOTES

Mr. GRAMS. Mr. President, I ask unanimous consent that the two cloture votes scheduled for today be postponed to occur on Thursday, at a time to be set by the majority leader, after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 956

Mr. GRAMS. Mr. President, I ask unanimous consent that at 10 a.m., on Wednesday, the Senate turn to the product liability conference report, that the conference report be considered read, and there be 5 hours for debate, to be equally divided in the usual form, and at 3 p.m., on Wednesday, the Senate proceed to a vote on the motion to invoke cloture, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. RES. 227

Mr. GRAMS. Mr. President, I further ask unanimous consent that immediately following the cloture vote, regardless of the outcome, the Senate proceed to the cloture vote with respect to the Special Committee to Investigate Whitewater.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1459

Mr. GRAMS. Mr. President, I further ask unanimous consent that, notwithstanding rule XXII, that following the two cloture votes on Wednesday, the Senate proceed to S. 1459, the grazing fees bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 956

Mr. GRAMS. Mr. President, I further ask unanimous consent that if cloture is invoked with respect to the product liability conference report, that the Senate resume the conference report at 9 a.m., on Thursday, and there be 3 hours for debate to be equally divided in the usual form, and at 12 noon, on Thursday, the Senate proceed to the adoption of the product liability conference report, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, MARCH 20, 1996

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m., Wednesday, March 20, 1996, and, further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to the consideration of the conference report to accompany H.R. 956, the product liability bill, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRAMS. Mr. President, for the information of all Senators, the Senate will debate the product liability conference report at 10 a.m., until 3 p.m., on tomorrow. At 3 p.m., there will be two consecutive rollcall votes. The first vote will be on invoking cloture on the product liability conference report, to be followed by a vote on cloture on the motion to proceed to the Whitewater resolution. Following those cloture votes, the Senate will begin consideration of the grazing bill, S. 1459. Additional votes could therefore occur during Wednesday's session of the Senate. Under the previous order, if cloture is invoked on Wednesday on the product liability conference report, there will be 3 hours of additional debate on that conference report on Thursday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATIONS TO AMENDMENT NO. 3553 TO H.R. 3019

Mr. GRAMS. Mr. President, I send to the desk modifications for pages 1, 4, and 5 of the managers' amendment to H.R. 3019 and ask it be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modifications are as follows:

On page 412, line 23, strike ''$497,850,000'' and insert ''499,100,000''.

On page 412, line 24, strike ''1997, of'' and insert ''1997, of which $2,000,000 shall be available for activities under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), of''.

On page 577, between lines 23 and 24, insert the following new section:

SEC. . (a) REIMBURSEMENT OF CERTAIN CLAIMS UNDER THE MEDICAID PROGRAM.—Notwithstanding any other provision of law, and subject to subsection (b), in the case where payment has been made by a State under title XIX of the Social Security Act between December 31, 1993, and December 31, 1995, to a State-operated psychiatric hospital for services provided directly by the hospital or by providers under contract or agreement with the hospital, and the Secretary of Health and Human Services has notified the State that the Secretary intends to defer the determination of claims for reimbursement related to such payment but for which a deferral of such claims has not been taken as of March 1, 1996 (or, if such claims have been deferred as of such date, such claims have not been disallowed by such date), the Secretary shall—

(1) if, as of the date of the enactment of this title, such claims have been formally deferred or disallowed, discontinue any such action, and if a disallowance of such claims has been taken as of such date, rescind any payment reductions effected;

(2) not initiate any deferral or disallowance proceeding related to such claims; and

(3) allow reimbursement of such claims.

(b) LIMITATION ON RESCISSION OR REIMBURSEMENT OF CLAIMS.—The total amount of payment reductions rescinded or reimbursement of claims allowed under subsection (a) shall not exceed $54,000,000.

(c) OFFSET OF FUNDS.—Notwithstanding any other provision of this Act, the amounts on lines 5 and 8 of page 570 (relating to the Social Services Block Grant) shall each be reduced by $70,000,000.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. GRAMS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Wednesday, March 20, 1996, at 10 a.m.